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Briefings on How To Use the Federal Register
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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
(TWO BRIEFINGS)

WHEN: June 15 at 9:00 am and 1:30 pm

WHERE: Office of the Federal Register, 7th Floor Conference Room, 800 North Capitol Street NW, Washington, DC (3 blocks north of Union Station Metro)

RESERVATIONS: 202–523–4538

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Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law numbers, Federal Register finding aids, and a list of Clinton Administration officials is available on 202–275–1538 or 275–0920.

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Presidential Documents

Title 3—

The President

Proclamation 6564 of May 21, 1993

National Maritime Day, 1993

By the President of the United States of America

A Proclamation

On May 22, 1819, the first transatlantic steamship voyage began when the SS *Savannah* left the U.S. port of Savannah, Georgia. Sixty years ago, in recognition of this historic voyage, President Franklin D. Roosevelt first called upon the American people to observe May 22 as National Maritime Day by displaying the American flag at their homes and other suitable places.

On National Maritime Day 50 years ago, the United States was engaged in a great World War. The United States merchant marine made victory possible by linking our production forces at home with our fighting forces overseas. Throughout our history, America's civilian seafarers have faithfully supported our military forces.

Thirty years ago, President John F. Kennedy cited the role of the American merchant marine in promoting world trade. "Our ships and the men who man them stand ready to serve the Nation in any circumstance and in all conditions of peaceful commerce or national emergency," he said.

On National Maritime Day 15 years ago, the U.S. Merchant Marine Academy at Kings Point, New York, was preparing to become the first Federal service academy to grant diplomas to women. The women who have since graduated from our service academies contribute significantly to our Nation's economic and military strength.

Today, America's merchant ships continue to provide jobs and economic benefits for America. The men and women who sail those ships and who serve in supporting industries are prepared to support the Nation in times of crisis. I ask all Americans to join me in saluting them on National Maritime Day, 1993.

In recognition of the importance of the U.S. merchant marine, the Congress, by a joint resolution approved May 20, 1933, has designated May 22 of each year as "National Maritime Day" and has authorized and requested the President to issue annually a proclamation calling for its appropriate observance.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim May 22, 1993, as National Maritime Day. I urge the people of the United States to observe this day with appropriate programs, ceremonies, and activities and by displaying the flag of the United States at their homes and other suitable places. I also request that all ships sailing under the American flag dress ship on that day.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-first day of May, 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. 93–12538
Filed 5–21–93; 4:24 pm]
Billing code 3195–01–P

Rules and Regulations

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NUCLEAR REGULATORY COMMISSION

10 CFR Part 0

RIN 3150–AE65

Repeal of NRC Standards of Conduct Regulations

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to repeal those delegations of authority and other miscellaneous regulations in 10 CFR part 0 that are now contained in NRC internal Management Directives and Handbooks or are no longer necessary. These internal documents were issued following the promulgation of government-wide ethics regulations by the Office of Government Ethics (OGE). The new OGE regulations have largely supplanted NRC's own ethics regulations.

EFFECTIVE DATE: June 24, 1993.

FOR FURTHER INFORMATION CONTACT: L. Michael Rafky, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone: 301–504–1606.

SUPPLEMENTARY INFORMATION:

Background

On August 7, 1992 (57 FR 35006), the Office of Government Ethics published its final rule establishing government-wide standards of conduct for executive branch employees. These regulations, which are codified at 5 CFR part 2635, took effect on February 3, 1993, and supplanted a substantial portion of Nuclear Regulatory Commission standards of conduct regulations.

OGE asked the Commission to remove its internal procedures and delegations of authority from 10 CFR part 0 and place them in internal agency documents. See 5 CFR § 2635.105 (1992). Having now issued the necessary Management Directives and Handbooks, NRC is deleting the applicable delegations of authority from, and other portions of, its remaining regulations in 10 CFR part 0. Because NRC is required to delete those portions of 10 CFR part 0 that have been superseded by OGE regulations, NRC finds, pursuant to 5 U.S.C. 553(b)(B), that there is good cause not to seek public comment on this rule, as such comment is unnecessary.

Environmental Impact: Categorical Exclusion

NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(1). Therefore, neither an environmental assessment nor an environmental impact statement has been prepared for the final regulation.

Paperwork Reduction Act Statement

This final rule contains no information collection requirements and therefore is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

Regulatory Analysis

The Nuclear Regulatory Commission is eliminating regulations that have been superseded by the Office of Government Ethics' government-wide standards of conduct regulations. This rule has no significant impact on health, safety or the environment. There is no substantial cost to licensees, NRC or other Federal agencies.

Backfit Analysis

NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule and that a backfit analysis is not required for this final rule, because these deletions of regulations do not involve any provisions which would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects in 10 CFR Part 0

Conflict of interest, Criminal penalties.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, and 5 U.S.C. 552 and 553, NRC is adopting the following amendments to 10 CFR part 0.

PART 0—CONDUCT OF EMPLOYEES

1. The authority citation for part 0 is revised to read as follows:

Authority: Secs. 25, 161, 68 Stat. 925, 948, as amended (42 U.S.C. 2035, 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); E.O. 11222, 30 FR 6469, 3 CFR 1964–1965 COMP., p. 306; 5 CFR 735.104.

Sections 0.735–21 and 0.735–29 also issued under 5 U.S.C. 552, 553.

§ 0.735–3 [Removed]

2. Section 0.735–3 is removed.

3. Section 0.735–21 is revised to read as follows:

§ 0.735–21 Acts affecting a personal financial interest (based on 18 U.S.C. 208).

(a) *Exemption of remote or inconsequential financial interests.* (1) In accordance with the provisions of 18 U.S.C. 208(b)(2), the NRC has exempted the following financial interests from 18 U.S.C. 208(a) upon the ground that such interests are too remote or too inconsequential to affect the integrity of its employees' services:

(i) Financial interests in an enterprise in the form of shares in the ownership thereof, including preferred and common stocks whether voting or nonvoting, and warrants to purchase such shares;

(ii) Financial interests in an enterprise in the form of bonds, notes, or other evidence of indebtedness;

(iii) Investments in State or local government bonds and investments in shares of a widely held diversified mutual fund or regulated investment company, except holdings in mutual investment funds or regulated investment companies dealing primarily in atomic energy stocks; *Provided*, That in the case of paragraph (a)(1) (i) and (ii) of this section:

(A) The total market value of the financial interests described in said subdivisions with respect to any individual enterprise does not exceed $1000; and

(B) The holdings in any class of shares, or bonds, or other evidences of indebtedness, of the enterprise do not exceed 1 percent of the dollar value of the outstanding shares, or bonds or other evidences of indebtedness in said class.

(2) Where a person covered by this exemption is a member of a group

organized for the purpose of investing in equity or debt securities, the interest of such person in any enterprise in which the group holds securities shall be based upon said person's equity share of the holdings of the group in that enterprise.

(3) For purposes of paragraph (a)(1) of this section, computations of dollar value of financial interests in corporations shall be by means of:

(i) Market value in the case of stocks listed on national exchanges; or

(ii) Over-the-counter market quotations as reported by the National Daily Quotation Service in the case of unlisted stocks; or

(iii) By means of net book value (i.e. assets less liabilities) in the case of stocks not covered by the preceding two categories. With respect to debt securities, face value shall be used for valuation purposes.

(4) The dollar value and percentage of financial interests listed above in paragraph (a)(1) of this section shall be computed as of the date on which the employee first participated personally and substantially in any particular matter, within the meaning of 18 U.S.C. 208(a), relating to the enterprise concerned. The dollar value and percentage so computed shall govern during the entire period that the employee participates in the particular matter unless, after the date of computation, the employee, or other person or organization referred to in paragraph (a) of this section acquires an additional interest in the same enterprise. In the event of such subsequent acquisition, the dollar value and percentage shall be recomputed as of the date of the subsequent acquisition. If, as a result of the subsequent acquisition, the dollar value and percentage computed exceeds the limitations described in paragraph (a)(1) of this section, the general exemption provided therein shall no longer be applicable and an ad hoc exemption must be sought in accordance with the provisions of 18 U.S.C. 208(b)(1).

(b) *Special exemption for special Government employees.* Federal Personnel Manual Chapter 735, Appendix C provides that a special Government employee should in general be disqualified from participating as such in a matter of any type the outcome of which will have a direct and predictable effect upon the financial interests covered by 18 U.S.C. 208. However, that chapter states that the power of exemption may be exercised in this situation "if the special Government employee renders advice of a general nature from which no preference or advantage over others might be gained by any particular person or organization." It is the policy of the Nuclear Regulatory Commission in conformity with the foregoing to exercise the power of exemption pursuant to 18 U.S.C. 208(b) in such situations.

§ 0.735–22 [Removed]

4. Section 0.735–22 is removed.

§ 0.735–23 [Removed]

5. Section 0.735–23 is removed.

§ 0.735–26 [Removed]

6. Section 0.735–26 is removed.

Annex A [Removed]

7. Annex A to 10 CFR part 0 is removed.

Dated at Rockville, Maryland this 12th day of May, 1993.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 93–12302 Filed 5–24–93; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 330

RIN 3064–AB01

Deposit Insurance Coverage

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rule.

SUMMARY: The FDIC has adopted final amendments to its deposit insurance regulations which specify the extent of insurance coverage provided by the FDIC for deposit accounts in FDIC-insured institutions. Most of the final amendments are required to implement section 311 of the Federal Deposit Insurance Corporation Improvement Act of 1991, which amended various provisions of the Federal Deposit Insurance Act governing deposit insurance coverage. The FDIC is also adopting other amendments to its deposit insurance regulations that the FDIC believes are necessary to further clarify the extent of deposit insurance provided by the Federal Deposit Insurance Act and the FDIC's regulations. The intended effect of this amendment is to make the FDIC's regulations consistent with the statutory provisions governing insurance coverage.

EFFECTIVE DATE: This regulation is effective on June 24, 1993, except §§ 330.1(j), 330.10(a), 330.12(c), 330.12(d)(3), and 330.13 which are effective December 19, 1993.

FOR FURTHER INFORMATION CONTACT: Claude A. Rollin, Counsel, Legal Division (202–898–3985).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

No collections of information pursuant to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) are contained in this notice. Consequently, no information has been submitted to the Office of Management and Budget for review.

Background

On December 19, 1991, the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA), Pub. L. 102–242, 105 Stat. 2236, was signed into law. Section 311 of FDICIA, inter alia, amended certain provisions of sections 3, 7 and 11 of the Federal Deposit Insurance Act (the FDI Act), 12 U.S.C. 1813, 1817, 1821, which govern the extent of insurance coverage provided by the FDIC for deposits in FDIC-insured institutions. Some of those statutory amendments were effective as of December 19, 1991, others became effective on December 19, 1992, and still other amendments will become effective on December 19, 1993.

On October 13, 1992, the FDIC's Board of Directors authorized the publication, for comment, of certain proposed amendments to the FDIC's deposit insurance regulations (12 CFR part 330). The proposed amendments, which were primarily to implement the statutory changes noted above, were published in the **Federal Register** (57 FR 49026) on October 29, 1992. The proposed amendments were published for a 60-day comment period which closed on December 28, 1992. The FDIC received a total of 144 comment letters that were carefully reviewed and considered by FDIC staff members. The comment letters were from many different sources, including insured depository institutions, bank and thrift holding companies, trade associations, corporations, law firms, members of Congress, government agencies and various other persons and entities. Those comment letters are summarized throughout the following discussion of the final amendments.

Rights and Capacities

Under the amended statutory provisions, deposit insurance is still based upon the ownership "rights and capacities" in which deposit accounts are maintained in FDIC-insured institutions. Although section 311 of FDICIA deleted the "rights and capacities" provisions from section 3(m) of the FDI Act, 12 U.S.C. 1813(m), it

added a similar provision to section 11(a)(1) of the FDI Act, 12 U.S.C. 1821(a)(1). The revised section 11(a)(1) requires the FDIC to aggregate all deposits in a single insured institution that are maintained by the depositor "in the same capacity and the same right." Since this language is virtually identical to the language that was deleted from section 3(m) of the FDI Act, the FDIC will, as proposed, continue to aggregate deposits maintained in the same right and capacity and, conversely, separately insure deposits maintained in different rights and capacities. This means there will be no change in the basic rules which provide that accounts owned in different manners are insured separately (provided that certain requirements are satisfied) and accounts owned in the same ways are added together and insured up to $100,000.

For instance, if an individual has two single ownership accounts at the same insured depository institution, those accounts are added together and insured up to $100,000 in the aggregate. But individual accounts are insured separately from joint accounts and also from some revocable and irrevocable trust accounts, provided that certain regulatory requirements are satisfied.

Authority and Purpose

As proposed, the FDIC amended § 330.2 of its deposit insurance regulations, 12 CFR 330.2, to revise the description of the FDIC's authority to prescribe deposit insurance regulations. The only statutory provisions which speak to the amount of deposit insurance that must be provided by the FDIC for various types of accounts are in sections 3, 7, 8, 11 and 12 of the FDI Act, 12 U.S.C. 1813, 1817, 1818, 1821, 1822. Section 311 of FDICIA deleted the provision in section 3 of the FDI Act, 12 U.S.C. 1813, which expressly authorized the FDIC to clarify and define, by regulation, the extent of deposit insurance coverage resulting from subsections 3(m)(1), 3(p), 7(i) and 11(a) of the FDI Act, 12 U.S.C. 1813(m)(1), 1813(p), 1817(i) and 1821(a), and to define the terms used in those sections. The FDIC does not believe, however, that by deleting this provision, Congress intended to specifically eliminate the FDIC's authority to prescribe deposit insurance regulations. Neither the language nor the legislative history of FDICIA evidences any intent on the part of Congress to drastically reduce the amount of deposit insurance coverage which would be the practical result of revoking the FDIC's deposit insurance regulations. In addition, Congress did not define the vast majority of terms in sections 3, 7 and 11 of the FDI Act, 12 U.S.C. 1813, 1817 and 1821, which govern the amount of deposit insurance coverage provided by the FDIC, including the "rights and capacities" language upon which all of the deposit insurance rules are based. Therefore, the FDIC must continue to define those terms and to provide more specificity concerning the extent of insurance coverage through regulations.

We not the FDICIA did not change the FDIC's authority, in section 9(a) (Tenth) of the FDI Act, to prescribe by its Board of Directors such rules and regulations as it may deem necessary to carry out the provisions of this Act or of any other law which it has the responsibility of administering or enforcing (except to the extent that authority to issue such rules and regulations has been expressly and exclusively granted to any other regulatory agency). 12 U.S.C. 1819(a) (Tenth).

Moreover, in section 302(d) of FDICIA, Congress added a new subsection (f)[1] section 10 of the FDI Act, 12 U.S.C. 1820(f), which provides that, except to the extent that authority under this Act is conferred on any of the Federal banking agencies other than the corporation, the Corporation may prescribe regulations to carry out this Act and by regulation define terms as necessary to carry out this Act.

The FDIC continues to believe that it is absolutely necessary to promulgate deposit insurance regulations in order to fulfill its deposit insurance obligations under the FDI Act. The FDIC further believes that the adoption of regulations, after public notice and comment, is the most appropriate way to clarify the rules and define the terms employed in affording deposit insurance coverage under the FDI Act and to provide rules for the recognition of deposit ownership in various circumstances. Since the authority to prescribe deposit insurance regulations has not been expressly and exclusively granted to any other regulatory agency, the FDIC does have the authority to continue to prescribe such regulations. Accordingly, the FDIC has amended § 330.2 of its deposit insurance regulations to modify the description of its authority to prescribe deposit insurance regulations.

[1] Section 302(d) erroneously designates this new subsection as "subsection (f)." FDICIA section 113(a)(1) already redesignated subsection (e) of section 10 of the FDI Act as subsection (f). The FDIC drafted, and submitted to Congress, a technical amendment to take care of this problem but that amendment has not been adopted by the Congress as of this date.

"Pass-Through" Deposit Insurance Coverage for Retirement and Other Employee Benefit Plan Accounts

As proposed, the FDIC has substantially revised § 330.12 of its deposit insurance regulations, 12 CFR 330.12, which concerns employee benefit plan accounts, since section 311 of FDICIA made numerous statutory amendments which affect the deposit insurance provided for employee benefit plan accounts.

The revised § 330.12(a) states the general rule that "pass-through" deposit insurance, in the amount of up to $100,000 per plan participant, shall be provided for the deposits of any employee benefit plan or eligible deferred compensation plan described in section 457 of the Internal Revenue Code of 1986 (457 Plan)[2], provided that the FDIC's recordkeeping requirements, as outlined in § 330.4, are satisfied. The term "employee benefit plan" is defined in § 330.12(g)(1) so as to include all employee benefit plans for which FDICIA mandates that the FDIC provide "pass-through" insurance coverage except for "457 Plans" (which are separately referenced in § 330.12(a)). The term "employee benefit plan" is defined as any plan which is described in section 3(3) of the Employee Retirement Income Security Act of 1974 (ERISA), including any plan described in sections 401(d) of the Internal Revenue Code of 1986.

As noted in the preamble to the proposed rule, this definition is broader than the current definition in that it

[2] "457 Plans" are deferred compensation plans provided by State and local governments, as well as not-for-profit organizations, that qualify under section 457 of the Internal Revenue Code of 1986. Before enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), 457 Plan accounts in FSLIC-insured savings and loan institutions were insured on a "pass-through" basis, up to $100,000 per-participant, but in FDIC-insured banks they were insured only up to $100,000 per-plan. As a result of FIRREA, the FDIC enacted uniform deposit insurance regulations which eliminated the "pass-through" insurance regulations which eliminated the "pass-through" insurance coverage for 457 Plan deposits in S&Ls but provided what was, in essence, an 18-month delayed effective date for this provision. Consequently, under the FDIC's rules, all 457 Plan deposits in S&Ls were entitled to "pass-through" insurance until January 29, 1992, or the first maturity date of any certificate of deposit after that date. One of the stated purposes of this delayed effective date or "grandfather" provision was to give Congress time to change the law so as to continue to provide "pass-through" insurance for 457 Plan deposits if it so desired. Congress ultimately opted to change the law by providing, in section 311(b)(1) of FDICIA, that 457 Plan deposits must be insured on a "pass-through" basis. 457 Plan deposits will, however, only be entitled to "pass-through" deposit insurance if they are in insured institutions that, at the time the deposits are accepted, can accept brokered deposits pursuant to section 29 of the FDI Act.

includes plans that have not previously been accorded "pass-through" coverage. For instance, section 3(3) of ERISA includes not only defined contribution and defined benefit plans but also certain employee welfare benefit plans. The deposits of employee welfare benefit plans have traditionally been entitled to deposit insurance only in the amount of up to $100,000 per-plan. Under FDICIA, such plans may be entitled to insurance in the amount of up to $100,000 per-participant.

Whether or not a particular plan will actually be entitled to coverage on a per-participant basis will depend on whether the interests of the participants are ascertainable. This is because the FDIC has decided to retain its current requirement that the interest of each plan participant be a "non-contingent interest" in order to be recognized for deposit insurance purposes. That term is defined, in § 330.12(g)(3) of the regulations, to mean an interest capable of determination without evaluation of contingencies except for those covered by the present worth tables and rules of calculation for their use set forth in § 20.2031–7 of the Federal Estate Tax Regulations (26 CFR 20.2031–7) or any similar present worth or life expectancy tables as may be published by the Internal Revenue Service. This definition is identical to the one in the pre-existing regulations.

The FDIC recognizes, however, that Congress has specifically directed the FDIC to provide "pass-through" deposit insurance for plans qualifying under section 457 of the Internal Revenue Code. Accordingly, even if participants in such plans were deemed to have contingent interests, the FDIC will still provide "pass-through" deposit insurance for "457 Plan" deposits provided that the FDIC's recordkeeping requirements are satisfied.

Brokered Deposit Exception to "Pass-Through" Insurance Coverage

1. General Rule and Exception to General Rule

Section 330.12(b) indicates the exception, as mandated by FDICIA, to the general rule that employee benefit plans can be entitled to "pass-through" deposit insurance. Section 11(a)(1)(D) of the FDI Act, as amended by section 311 of FDICIA, only permits "pass-through" insurance coverage for employee benefit plan deposits (including "457 Plan" deposits) that are in insured institutions that could accept brokered deposits (pursuant to section 29 of the FDI Act) at the time they accepted the employee benefit plan deposits. See, 57 FR 23933–44 (June 5, 1992), amending 12 CFR 337.6. This would exclude undercapitalized institutions and institutions that are "adequately capitalized" but have not obtained a waiver from the FDIC to accept brokered deposits at the time they accepted the employee benefit plan deposits.

There is an exception to this exception which provides that "pass-through" insurance can still be accorded to employee benefit plan deposits in an institution that could not accept brokered deposits if, at the time the deposits are accepted, the institution meets each applicable capital standard. This would apply to "adequately capitalized" institutions that have not applied to the FDIC for permission to receive brokered deposits and those that have applied and been denied a waiver. In addition, the exception only applies if the depositor has received written notification that such deposits at the institution are entitled to insurance coverage on a pass-through basis.

2. Disclosure of Capital Ratios and Capital Category

Since the "pass-through" insurance rules are now dependent, in part, upon the capital categories of insured depository institutions, the issue of whether insured institutions can or must disclose their capital ratios/categories is very important. A number of commenters expressed concern about the availability of capital information generally.

Regulations implementing the Prompt Corrective Action (PCA) statutory provisions of FDICIA, state as follows:

> The assignment of a bank or insured branch under this subpart within a particular capital category is for purposes of implementing and applying the provisions of section 38. Unless permitted by the FDIC or otherwise required by law, no bank may state in any advertisement or promotional material its capital category under this subpart or that the FDIC or any other federal banking agency has assigned the bank to a particular capital category. 12 CFR 325.101(e).

The FDIC has received a number of inquiries concerning whether or not the quoted provision would prohibit insured institutions from disclosing their capital categories to depositors. The FDIC believes that the above-noted provision would not prohibit an insured state nonmember bank[3] from disclosing its capital category to an individual depositor so that the depositor can make a decision about depositing funds in the institution. Moreover, the FDIC believes that this provision would not prohibit the bank from disclosing its total risk-based capital, Tier 1 risk-based capital and leverage capital ratios, to the extent the institution has calculated such ratios, to an individual depositor. In addition, there is no other written FDIC policy or regulation that prohibits the disclosure of this type of capital information by any insured depository institution. Accordingly, we would suggest that pension plan fiduciaries and other interested parties who would like to obtain capital information should first contact their depository institutions directly to obtain such information.

The FDIC recognizes, however, that some employee benefit plan administrators and advisors may not find it sufficient to obtain capital ratios or the capital category directly from an insured institution. A number of commenters indicated that some employee benefit plan administrators may find it necessary to independently verify the capital status of an insured institution in order to satisfy their fiduciary obligations.

There are several sources, other than insured institutions, to obtain information about the capital status of insured institutions. Currently, a depositor can request and obtain (for a fee of $2.50) a particular institution's Consolidated Reports of Condition and Income (Call Reports), which contain balance sheets and income statements as well as some detailed schedule information for individual banks. Call Reports, which are filed on a quarterly basis, are available from the FDIC or the institution's primary federal regulator (the Office of the Comptroller of the Currency for nationally-chartered banks, the Office of Thrift Supervision for savings and loan associations, and the Board of Governors of the Federal Reserve System for banks that are members of the Federal Reserve system). Call Reports provide information necessary to determine an institution's leverage capital ratio and to estimate an institution's risk-based capital ratio.

A depositor can also obtain Uniform Bank Performance Reports, which compare individual banks to their peer groups, from any of the federal bank regulatory agencies. Such reports, which contain capital ratios, are available from the FDIC for a fee of $30.00 each. To order copies of Call Reports and/or Uniform Bank Performance Reports from the FDIC, members of the public should contact:

> Federal Deposit Insurance Corporation, Financial Disclosure Group, Room F–518, 550 17th Street, NW., Washington, DC 20429, Telephone: 1–800–843–1669.

[3] Other federal banking regulators have very similar regulatory provisions but they should be consulted with respect to how this provision is interpreted for institutions for which they are the primary federal regulator.

Reports are also available which provide composite data for all banks within a state (at a cost of $40.00 each) and can be obtained by contacting:

Federal Financial Institutions Examination Council, Uniform Bank Performance Reports, Department 4320, Chicago, Illinois 60673, Telephone: 1–800–843–1669.

Finally, there are a number of private rating services such as Sheshunoff Information Services, Veribank and IDC Financial Publishing, which publish individual bank ratings and frequently include capital ratios. However, the FDIC does not, in any way, endorse or verify the accuracy of the information provided by any of the private rating services.

3. Time of Acceptance

In the preamble to the proposed rules (57 FR 49028, October 29, 1992), it was noted that the relevant time period for determining whether or not a particular insured depository institution can accept brokered deposits is the time at which the institution accepts the employee benefit plan deposit. Therefore, if an institution can accept brokered deposits at the time it accepts an employee benefit plan deposit because it is "well-capitalized" but is subsequently unable to accept brokered deposits because it becomes "undercapitalized," the employee benefit plan deposit would not lose its "pass-through" insurance coverage.

One of the more commonly asked questions since the proposed rules were released is: How often does a depositor have to ascertain the capital status of an insured depository institution? By focusing on "the time such deposits are accepted," the revised section 11(a)(1)(D)(ii) of the FDI Act requires that employee benefit plans determine the capital status of an insured institution each and every time a deposit is made. The FDIC recognizes that this requirement may be quite burdensome for some employee benefit plans which make deposits on a daily, weekly bi-weekly or monthly basis, frequently in many different insured institutions.

Some commenters suggested that perhaps the FDIC should define the term "acceptance" to mean whenever an employee benefit plan first establishes a deposit account (certificate of deposit, money market account, demand deposit account, etc.) with an insured institution. Since the statute speaks in terms of "deposits" being accepted rather than "accounts" being accepted, the FDIC does not find the suggested interpretation to be in accordance with the plain meaning of the statutory language. Moreover, it seems that this approach would circumvent the intent of Congress to cut-off employee benefit plan deposit funding for "undercapitalized" institutions since, under the suggested approach, a $10,000 CD acquired today from a "well capitalized" institution could grow to $10 million and have "pass-through" insurance five years from now even though the institution becomes "critically undercapitalized" two years from now. Accordingly, the FDIC has decided to retain the proposed approach, which was that a deposit is "accepted" anytime funds are received by the bank.

In the preamble to the proposed rule, the FDIC indicated its intent to construe the term "acceptance" to include any rollover or renewal of a time deposit (57 FR 49028, October 29, 1992). Under this approach, the ability of an insured institution to accept brokered deposits at the time any employee benefit plan deposit is rolled over or renewed would determine whether or not that deposit was henceforth entitled to "pass-through" coverage. This is consistent with the FDIC's interpretation under its brokered deposit regulation (12 CFR 337.6) and recognizes the fact that when a CD or other time deposit matures, an employee benefit plan has an opportunity to re-evaluate the capital status of the depository institution.

Of the commenters who addressed this issue, three agreed with the FDIC's proposed approach with respect to rollovers and renewals and six opposed the FDIC's approach. Those commenters not in favor of the proposed approach indicated that including rollovers and renewals would create an unnecessary burden for plan administrators by requiring them to keep detailed records and constantly monitor maturity dates. Although the FDIC is sensitive to the additional burden created by this interpretation, the FDIC believes that if automatic renewals or rollovers were not deemed to be acceptances of new deposits, the intent of Congress to provide "pass-through" insurance coverage for employee benefit plan deposits only in institutions that meet minimum capital requirements could be circumvented. This is because, under the alternative interpretation, employee benefit plan deposits could be automatically rolled over or renewed indefinitely and be entitled to "pass-through" insurance regardless of the capital level of the institution each time the deposit is rolled over or renewed.

The proposed rules did not address the issue of time deposits that mature and are not rolled over or renewed but are converted to demand deposits. Although the FDIC does not believe that this situation is very common, if it does occur, such a deposit would be treated as a new deposit since some of the major terms of the deposit (e.g., maturity date and interest rate) would change.

In the preamble to the proposed rules, we recognized that the application of the "time of acceptance" rule would be particularly difficult for some employee benefit plans given the constant in-flow and out-flow of some employee benefit plan deposits at banks. The FDIC recognized that applying a rule that would require employee benefit plans to verify the capital status of all insured institutions in which they have deposits on a daily basis would be extremely burdensome especially for non-professional or less sophisticated employee benefit plan managers. The problem is that, under a strict reading of the statute, an employee benefit plan that makes deposits at an insured institution on a day in which the institution is "well capitalized," and thus can accept brokered deposits, would be entitled to "pass-through" deposit insurance, but if several weeks later the same institution is "undercapitalized," and thus cannot accept brokered deposits, the employee benefit plan would not be entitled to "pass-through" insurance for any funds deposited by the plan at that time. Since benefits may be paid from the deposits in the interim, it would also be very difficult for the FDIC to determine which of the employee benefit plan's deposits are entitled to "pass-through" deposit insurance.

In recognition of the fact that not all banks calculate their capital ratios on a daily basis and in an effort to minimize the burden on depositors, the FDIC has decided to adopt an approach which is consistent with the approach taken under the Prompt Corrective Action (PCA) regulations. See, 12 CFR part 325, subpart B. Under the PCA regulations, an institution's capital category is, in essence, held constant for an entire calendar quarter unless there is an intervening event which causes the institution to be in a different category. Under the PCA regulations, an institution is deemed to be in a particular capital category when its quarterly Call Report is due. It remains in that category until the next Call Report is due unless and until: (1) There is an intervening Report of Examination which causes the institution to be placed in a different capital category; or (2) a major event occurs which causes the institution to be in a different capital category, the institution sends its primary federal regulator a notice thereof, and the primary regulator sends

a notice back to the institution confirming that the institution's capital category has changed; or (3) the institution receives written notice from its primary federal regulator that it has been reclassified.

By holding an institution's capital category constant for an entire quarter, unless there is an intervening event, employee benefit plan administrators only have to ascertain the capital category of an institution once every three months. Some employee benefit plans administrators have indicated that they are planning to make arrangements with their depository institutions to notify them whenever the institution's capital category changes.

With respect to the effective date of the brokered deposit exception, the statute directs the FDIC not to provide "pass-through" insurance, as of December 19, 1992, for any employee benefit plan deposits in an insured depository institution that, at the time the deposits were accepted, could not accept brokered deposits under section 29 of the FDI Act. Although the final regulations implementing section 29 became effective on June 16, 1992, the FDIC has decided to apply this prohibition only to deposits accepted by insured depository institutions on or after December 19, 1992.

4. Exception to Exception

As noted above, even if an institution cannot accept brokered deposits, it can still provide "pass-through" insurance for employee benefit plan deposits if, at the time the deposit is accepted, it: (1) Meets each applicable capital standard; and (2) the depositor receives a written statement from the institution that such deposits are eligible for insurance coverage on a "pass-through" basis. Quite a few commenters requested additional clarification or expressed concern about the meaning of the term "each applicable capital standard" and the mechanics of the written statement provision.

One issue on which the FDIC specifically requested comment is whether the term "each applicable capital standard" should be interpreted to include not only the minimum leverage and risk-based capital standards established for all insured institutions but also any higher standards established for a particular institution in an order, capital directive, written agreement, or as a condition for approval of an application for deposit insurance. The FDIC indicated in the preamble to the proposed rule that it was inclined to interpret the term "each applicable capital standard" in a narrow sense so as to mean only the leverage and risk-based capital standards established by regulation and/or policy statement of the institution's primary federal regulator.

With the exception of one commenter, all parties who commented on the issue supported the FDIC's interpretation of the term "each applicable capital standard." Commenters generally agreed that the FDIC's interpretation of the term to mean only the leverage and risk-based capital standards established by regulation and/or policy statement of the institution's primary federal regulator was the most appropriate interpretation. The commenter opposing the FDIC's interpretation expressed the opinion that "each applicable capital standard" should mean either the minimum leverage ratio or the minimum risk-based capital ratio. Given the fact that the statute says "each" applicable capital standard, the FDIC believes that it cannot interpret the language in the manner suggested by that commenter.

The FDIC has not found, nor been made aware of, any legislative history which suggests that Congress intended a broader meaning of the term "each applicable capital standard." Moreover, capital directives, orders and agreements requiring institutions to raise additional capital often require institutions to use their "best efforts" to raise capital. With that type of language, it would be extremely difficult (if not impossible) for depositors (i.e., pension plan administrators) to determine whether or not a particular institution was complying with a "best efforts" requirement. In addition, under the brokered deposit rule, an institution that satisfies its minimum regulatory capital requirements is deemed to be "adequately capitalized" regardless of whether or not the institution is required to meet some higher level of capital pursuant to an order, directive or written agreement. 12 CFR 337.6. The final prompt corrective action regulations (57 FR 44866, September 29, 1992) also define an "adequately capitalized" institution to be one that meets its minimum regulatory capital requirements regardless of whether or not the institution is required to meet some higher level of capital pursuant to an order, directive or written agreement. Accordingly, the FDIC has decided to interpret "each applicable capital standard" to mean only the leverage and risk-based capital standards established by regulation and/or policy statement of the institution's primary federal regulator, as originally proposed.

In addition to the depository institution meeting each applicable capital standard, the employee benefit plan depositor must receive a written statement from the institution that the plan's deposits are entitled to "pass-through" deposit insurance coverage in order to take advantage of this exception. Commenters on the proposed rules and others have raised a number of questions about what the written statement concerning "pass-through" insurance coverage should say, how often the written statement must be given to a depositor, to whom the written statement must be given and other implementation questions.

As a preliminary matter, the FDIC wishes to point out that depositors need to obtain the written statement only from "adequately capitalized" institutions that have not obtained a waiver from the FDIC to accept brokered deposits pursuant to section 29 of the FDI Act. Institutions that are "well capitalized" can accept brokered deposits without a waiver from the FDIC and thus can provide "pass-through" insurance coverage for employee benefit plan deposits without providing a written statement to depositors of employee benefit plan funds. Institutions that are "undercapitalized" or fail to meet any of their minimum capital requirements cannot accept brokered deposits or provide "pass-through" insurance for employee benefit plan deposits and thus there is no need for such institutions to give any kind of notice to depositors. The FDIC may, in the future, consider requiring institutions that are unable to accept brokered deposits and thus unable to provide "pass-through" insurance for employee benefit plan deposits to notify depositors of employee benefit plan funds. Any such requirements would only be imposed through a rulemaking proceeding which would afford all interested parties an opportunity to comment on a specific proposal for implementing the requirement.

The FDIC has received a number of inquiries concerning what the written statement should say. Section 11(a)(1)(D)(iii)(II) of the FDI Act, as amended by section 311(b)(1) of FDICIA, merely provides that the written statement must provide that such deposits at such institution are eligible for insurance coverage on a pro rata or "pass-through" basis. The FDIC has not found, nor been made aware of, any legislative history which would provide any further guidance on the language of the notice. In the proposed rules, the FDIC did not provide any standard language or prototype written statement since the FDIC believed that it would be more appropriate to allow each institution to draft its own written statement. The FDIC still believes that it

is not necessary to require that specific language be utilized in the written statement. However, in an effort to provide some guidance for insured institutions who have requested it, the FDIC does not believe that the written statement needs to be lengthy or complicated. A simple notice which indicates that the institution meets each applicable minimum capital requirement, as of a specific date, and thus employee benefit plan deposits made on that date would be entitled to "pass-through" coverage (provided that the FDIC's recordkeeping requirements are satisfied), would, in the opinion of the FDIC, constitute a sufficient statement for purposes of satisfying the statutory provision requiring a written statement.

Another commonly asked question concerns the frequency with which an employee benefit plan has to obtain a written statement from an insured institution in order to preserve "pass-through" deposit insurance coverage. Some commenters suggested that the statement should be given only when an account is first opened. However, the amended statutory provisions indicates that the exception applies if a written statement is given "at the time the deposit is accepted." The statute seems to contemplate that the written statement be given each time a deposit is made which means each time additional funds are deposited in the insured institution. Of course, a depositor of employee benefit plan funds does not have to continue obtaining written statements from an insured depository institution if the institution becomes "well capitalized" or if the institution obtains a brokered deposit waiver from the FDIC.

Another issue concerns the appropriate recipient(s) of the written statement. A number of bankers have inquired whether or not the written statement must be given to plan participants or just the plan trustees/administrators. The FDIC believes that, in general, the "pass-through" statement need be given only to the plan themselves or the person(s) managing or administering the plans since those are, in most cases, the only parties who are the depositors and thus have a direct relationship with the insured depository institution. In the vast majority of cases, the institutions do not have the names and/or addresses of the plan participants. Once an insured institution notifies an employee benefit plan sponsor, manager, or administrator, then the FDIC believes that it is the responsibility of the plan fiduciaries to determine whether or not they have a fiduciary duty to, in turn, notify plan participants. In cases where the insured institution is acting as trustee or plan administrator of an employee benefit plan, then the institution must determine whether it has an obligation, as a fiduciary, to notify plan participants.

Finally, the FDIC wishes to note that when the written statement is given to the depositor, the statement, in and of itself, does not guarantee "pass-through" insurance coverage for the employee benefit plan's deposits. The requirement that an institution meet "each applicable capital requirement" at the time it accepts the employee benefit plan deposit is an independent requirement that must be satisfied in order for the deposit to be entitled to "pass-through" deposit insurance coverage.

Aggregation of Multiple Plans

The FDIC proposed to continue to aggregate, for insurance purposes, the non-contingent interests of an employee in all deposit accounts for employee benefit plans (including "457 plans") established by the same employer or employee organization. The FDIC received no comments on this proposal and has decided to adopt this provision as proposed. The rule, which is stated in § 330.12(c)(1) of the deposit insurance regulations, simply reiterates the pre-existing rule.

In addition, the term "employee organization" would continue to be defined, as it is defined in the current regulations, to mean:

> Any labor union, organization, employee representation committee, association, group, or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning an employee benefit plan, or other matters incidental to employment relationships; or an employees' beneficiary association organized for the purpose, in whole or in part, of establishing such a plan. 12 CFR 330.12(f)(2).

Aggregation of Self-Directed Retirement Accounts

Section 311(b)(2) of FDICIA amended section 11(a)(3) of the FDI Act, 12 U.S.C. 1821(a)(3), to require the FDIC to aggregate an employee's interests in all deposits made in connection with the following types of retirement plans and insure the total up to $100,000:

> (1) Any individual retirement account described in section 408(a) of the Internal Revenue Code of 1986;
>
> (2) Any eligible deferred compensation plan described in section 457 of the Internal Revenue Code of 1986; and
>
> (3) any individual account plan defined in section 3(34) of the Employee Retirement Income Security Act (ERISA) and any plan described in section 401(d) of the Internal Revenue Code of 1986, to the extent that participants and beneficiaries under such plans have the right to direct the investment of assets held in individual accounts maintained on their behalf by the plans.

To implement this statutory requirement, the FDIC proposed § 330.12(c)(2) which was patterned after the language in FDICIA. Commenters addressing this proposed provision were generally not in favor of the proposed aggregation of an employee's interests in self-directed retirement accounts. Some commenters pointed out that under the pre-existing rules, an employee's interest in each of these types of accounts could potentially be entitled to separate insurance coverage of up to $100,000. With the implementation of the proposed rule, however, if an individual had an interest in each type of account, his/her deposit insurance coverage would be significantly reduced from a total of up to $400,000 to a total of up to $100,000. Some commenters noted that this aggregation rule would reduce insurance coverage on consumers' most important assets, namely, their retirement funds. Commenters went further to suggest that this reduction in coverage could erode consumer confidence and discourage their desire to establish insured retirement funds. Although the FDIC recognizes that the proposed aggregation provision represents a substantial reduction in the existing level of coverage for those types of employee benefit plan deposits, the FDIC believes that the reduction in coverage is mandated by Congress. The regulatory provision in question closely tracks the statutory language to implement a statutory mandate.

A number of commenters asked the FDIC to provide some guidance as to which Keogh and defined contribution plans would be deemed to be "self-directed" and thus subject to the aggregation rules. As noted above, the revised section 11(a)(3) of the FDI Act, 12 U.S.C. 1821(a)(3), requires the FDIC to aggregate, inter alia, Keogh plans and defined contribution plans "to the extent that participants and beneficiaries under such plans have the right to direct the investment of assets held in individual accounts maintained on their behalf by the plan." The quoted language is what is often referred to as "self-directed." A number of commenters asked the FDIC to clarify the meaning of this language. The issue is as follows: If a defined contribution plan allows participants to invest their money in a fund consisting of deposits in various insured institutions or a fund consisting not only of such deposits but

also investments in commercial paper and other short-term investments which are not deposits, is this the type of "self-directed" plan that would come within the above-quoted provision and thus be subject to the aggregation rule?

Some commenters suggested that the FDIC should include this type of plan within the types of plans which are deemed "self-directed." One of the stated rationales is "because ERISA defines the term 'self-directed' to include those plans that permit fund, as opposed to individual investment product selection, the FDIC's regulations should do no less."

One commenter suggested that perhaps a more appropriate term would be "participant directed," which would indicate that "the participant has actually selected a specific institution for his plan deposits or that a plan administrator has advised him that a specific institution has been selected." Yet another commenter pointed out that most employee benefit plans that allow investment choices only provide for the participant to choose a "fund" not a particular bond, certificate of deposit, stock, etc. This commenter opined that "pass-through" coverage should be provided in such cases and denied only where the participant has the right to actually choose the particular instrument.

Although the FDIC has not discovered any legislative history on this point, we must assume that the reason the drafters singled out employee interests in self-directed Keogh plans, self-directed defined contribution plans, IRAs and "457 Plans" to be aggregated, is because plan participants in those types of plans typically know where their funds are deposited and could protect themselves from being uninsured more so than in other types of plans. Accordingly, the FDIC intends to interpret the relevant language to mean that "self-directed" plans, for our purposes, are only those plans where the plan participants have the right to direct funds into a specific insured institution. Funds consisting of deposits in more than one insured institution, investments in a mixture of insured deposits and other non-deposit liabilities, or investments solely in non-deposit liabilities, would be excluded.

Application of "Brokered Deposit" Exception to Self-Directed Retirement Plan Accounts

In the preamble to the proposed rule, the FDIC noted that section 11(a)(3)(A) of the FDI Act, 12 U.S.C. 1821(a)(3)(A), as amended by section 311(b)(2) of FDICIA, which requires the FDIC to aggregate and insure the above-noted retirement plan accounts in the amount of up to $100,000 per-participant, begins with the following words:

> Notwithstanding any limitation in this Act relating to the amount of deposit insurance available for the account of any 1 depositor * * *.

The FDIC proposed to interpret this language to mean that, for self-directed employee benefit plan accounts described in section 11(a)(3)(A) of the FDI Act (except for "457 plan" accounts), pass-through insurance coverage must be provided regardless of whether or not the insured institution could accept brokered deposits at the time it accepted the employee benefit plan deposit.

However, the provision requiring the FDIC to aggregate an individual's interest in the above-noted employee benefit plan accounts is to take effect only on December 19, 1993. Since the brokered deposit exception to "pass-through" insurance coverage (described above) became effective on December 19, 1992, the FDIC's proposed interpretation creates a one-year gap: Self-directed employee benefit plan deposits in undercapitalized institutions would not be entitled to "pass-through" insurance coverage as of December 19, 1992 but would be entitled to such coverage again on December 19, 1993.

The proposed interpretation of the "notwithstanding" language seemed to make sense since it created a situation whereby deposits of self-directed employee benefit plans (where the employees make the investment decisions) would be entitled to "pass-through" insurance coverage regardless of whether or not the depository institution could accept brokered deposits, while deposits of non-self-directed plans would be entitled to "pass-through" coverage only if the depository institution could accept brokered deposits. It appeared that Congress was attempting to make a distinction between funds invested by employers, who presumably are more sophisticated than individual employees and would have to monitor the capital level of the depository institution in order to obtain "pass-through" insurance coverage, and those invested by employees who are presumably less able to monitor the capital levels of the insured depository institution and thus would be entitled to "pass-through" deposit insurance regardless of the capital level of the insured institution.

However, the one-year gap created by this interpretation is illogical. If Congress intended to provide "pass-through" insurance for self-directed employee benefit plan deposits regardless of the capital level of insured institutions, it makes no sense to eliminate the coverage for deposits in "undercapitalized" institutions on December 19, 1992 and reinstate it on December 19, 1993. Either the effective date of the aggregation provision (which contains the "notwithstanding" language) was erroneously stated or the FDIC misinterpreted Congress' intent with respect to that provision.

The FDIC has not found, nor been made aware of, any legislative history which sheds light on this issue. The FDIC staff has had discussions with staff members from the Committee on Banking, Finance and Urban Affairs of the House of Representatives who were involved in the drafting of FDICIA. The Banking Committee staff have indicated that the drafters of the relevant provisions did not intend to create a one-year gap. The staff members indicated that the drafters did not intend the FDIC to treat self-directed employee benefit plans any differently than non-self-directed plans. According to those staff members, the "notwithstanding" language was just a carryover from the existing statutory language and was not intended to exempt self-directed plans from the brokered deposit exception to "pass-through" insurance coverage. Although such opinions expressed by Congressional staff members are certainly not accorded the same weight as legislative history and are, in no way, binding upon the FDIC, they are useful to the FDIC in determining what may have been the intent of the drafters and ultimately the intent of Congress when it adopted the provision.

Given the fact that the one-year gap created by the FDIC's proposed interpretation is illogical and Congress could not have intended an illogical result, the FDIC has reconsidered its proposed interpretation and decided to adopt an alternative interpretation, which is that all employee benefit plan deposits, regardless of the type of plan, are subject to the "brokered deposit" exception to "pass-through" insurance coverage which appears in section 11(a)(1)(D) of the FDI Act, 12 U.S.C. 1821(a)(1)(D), as amended by section 311 of FDICIA.

However, only deposits of employee benefits plans which are entitled to "pass-through" deposit insurance (those that are made in institutions which, at the time the deposits are made, can accept brokered deposits or which are made in "adequately capitalized" institutions that have provided written statements to the depositor assuring "pass-through" coverage) will be subject to the aggregation provision. Deposits of

employee benefit plans that are not entitled to "pass-through" insurance will be aggregated and insured in the amount of up to $100,000 per plan.

As a technical matter, the FDIC will no longer address the deposit insurance provided for IRA and Keogh deposits in a separate section of the FDIC's regulations (those rules were enumerated in § 330.13 of our regulations). Since IRA and self-directed Keogh accounts will no longer be separately insured from each other or from certain other retirement accounts, the FDIC does not believe that a separate section in its regulations for IRA and Keogh accounts is warranted.

Accordingly, the rules governing IRA and Keogh accounts are now included within the general retirement account provisions of § 330.12 of the regulations, 12 CFR 330.12.

Determination of Interests

The FDIC has decided to retain the pre-existing provisions which explain the methods by which an employee's interests in the deposits of a defined contribution or defined benefit plan are determined for insurance purposes. The FDIC is, however, clarifying the existing rules by substituting the word "employee" for "beneficiary." There have been some questions raised about the extent to which a spouse or other person may have an interest in an employee benefit plan deposit upon the failure of an insured institution. Although such persons may be entitled to benefits under an employee benefit plan upon the death or divorce of a plan participant, the FDIC has not historically recognized that such persons have an insurable interest in the deposits of the plan while the plan participant is still alive and married. Accordingly, the FDIC proposed to clarify this point by changing the existing references to the "beneficiary's account balance" in § § 330.12(b)(1) and (2), 12 CFR 330.12(b)(1) and (2), so that they will refer to the "employee's account balance." This proposed change in language, which did not represent any change in the FDIC's existing policy, was not commented on by any of the commenters. The FDIC has decided to adopt the clarifying language change as initially proposed.

Vested Interests

In aggregating participants' interests in certain retirement plan accounts, Congress directed the FDIC to consider only the present vested and ascertainable interest of each participant under [an employee benefit] plan excluding any remainder interest created by, or as a result of, the plan. See, section 11(a)(3)(B) of the FDI Act as amended by section 311(b)(2) of FDICIA. Under the FDIC's pre-existing rules, the interest of each employee in an employee benefit plan, whether vested or unvested, has been insured up to $100,000. By directing the FDIC to recognize only vested interests in certain employee benefit plan accounts, the total amount of insurance coverage available for the accounts of those employee benefit plans will be reduced. The FDIC proposed to apply this limitation to all employee benefit plan accounts that will be, under the amended regulations, entitled to "pass-through" deposit insurance coverage. The FDIC indicated, in the preamble to the proposed rules, that it believed that it would be fairer to apply this rule to all employee benefit plan accounts rather than just to those that are required by Congress to be aggregated. The FDIC pointed out that to do only what Congress mandated would be to recognize both vested and non-vested interests of participants in defined benefit plan accounts (which are not subject to aggregation) but only vested interests in self-directed defined contribution plan accounts. The FDIC specifically requested comment on this approach. In addition, the FDIC indicated that it was particularly interested in receiving any financial data or statistics indicating the amounts or percentages of unvested funds deposited in insured institutions which would be affected by this proposed rule change.

Of the 144 comment letters received by the FDIC, only 11 specifically addressed the issue of providing coverage only for participants' vested interests in employee benefit plan accounts. Most of those commenters (9 of 11) opposed the FDIC's proposed approach of applying the "vested interests only" rule to all types of employee benefit plan accounts. They recommended not going beyond the statutory mandate of recognizing only vested interests of employees in IRA accounts, self-directed Keogh Plan accounts, self-directed defined contribution plan accounts and "457 Plan" accounts. Some commenters asserted that the types of employee benefit plans that were specifically enumerated differ significantly from other types of employee benefit plans in, inter alia, the methods and sources of funding used by the plans, the extent to which participant interests are vested, and the extent of a participant's control over the investment of his or her interest.

The FDIC acknowledges that there are significant differences among different types of employee benefit plans and that it is generally easier to determine an employee's vested interest in a self-directed defined contribution plan than it is to determine an employee's interest in a defined contribution plan. In addition, the FDIC recognizes that its proposal may be more costly and burdensome for both employee benefit plans and insured institutions than following the more limited mandate of Congress. One commenter asserted that the FDIC's proposal would also negatively impact the collateralization requirements for national banks by requiring such banks to collateralize additional funds.

After carefully considering the comment letters and reconsidering the issue, the FDIC has decided to apply the "vested interests only" rule to only those types of employee benefit plan accounts where the application of this rule is mandated. The FDIC recognizes that it would be more difficult for employee benefit plan administrators to determine vested interests of employees in the types of plans that Congress did not require the FDIC to apply the "vested interests only" rule than in plans to which Congress required the FDIC to apply this rule.

Bank Investment Contracts (BICs) and Similar Contracts

The FDIC has decided to amend § 330.13 of its regulations, 12 CFR 330.13, so that it states the rules applicable to Bank Investment Contract (BICs) and similar instruments. Under the pre-existing deposit insurance regulations, BICs were treated like any other deposit instruments and were generally insured in the amount of $100,000 per employee benefit plan participant, provided that certain recordkeeping requirements were satisfied. FDICIA directs the FDIC not to assess, nor provide any deposit insurance for, certain benefit-responsive BICs and similar instruments. However, investment contracts without the benefit-responsive features and other types of deposit instruments, such as regular CDs, acquired by employee benefit plans would still be insured.

Section 311(a) of FDICIA provides that any insured depository investment contract between an employee benefit plan and an insured depository institution which expressly permits benefit-responsive withdrawals or transfers shall neither be entitled to deposit insurance nor subject to assessment. The term "benefit-responsive withdrawals or transfers" is defined to mean any withdrawal or transfer of funds (consisting of any portion of the principal and any interest

credited at a rate guaranteed by the insured depository institution investment contract) during the period in which any guaranteed rate is in effect, without substantial penalty or adjustment, to pay benefits provided by the employee benefit plan or to permit a plan participant or beneficiary to redirect the investment of his or her account balance.

The final language of § 330.13 closely tracks the statutory language for the purpose of incorporating this statutory mandate into the deposit insurance regulations.

The FDIC proposed to define the term "employee benefit plan" in exactly the same manner as FDICIA defines the term, which was to say that it would be given the same meaning as the term is given in section 3(3) of the Employee Retirement Income Security Act of 1974 (ERISA) and it includes any plan described in section 401(d) of the Internal Revenue Code of 1986.

One issue raised by several commenters is whether plans established pursuant to section 457 of the Internal Revenue Code, 26 U.S.C. 457 ("457 Plans"), would be included in the definition of "employee benefit plan." Section 3(3) of ERISA provides that the term "employee benefit plan" includes, inter alia, an "employee pension benefit plan." The term "employee pension benefit plan" is defined, in relevant part, to mean "any plan, fund, or program * * * established or maintained by an employer * * * to the extent that * * * such plan fund or program provides retirement income to employees or * * * results in the deferral of income for periods extending to the termination of covered employment or beyond * * *".

Some commenters expressed the opinion that this broad definition would include "457 Plans," most of which are exempt from regulation under ERISA solely as a result of specific jurisdictional restrictions set forth in section 4 of ERISA which limit the scope of ERISA's coverage by excluding certain classes of employee benefit plans, including "governmental plans" (separately defined in section 3(32) of ERISA as any plan "established or maintained * * * by the government of any State or political subdivision thereof * * *"). In addition, some commenters asserted that there is no logical basis for distinguishing between "457 Plans" and other types of employee benefit plans since, unlike ERISA, FDICIA was intended to address risks of deposit insurance coverage (which would be indistinguishable among all types of employee benefit plans) rather than the safety of pension money (which may involve different considerations depending upon the nature of the plan and its sponsor).

Other commenters, however, pointed to a colloquy which took place at the time that both the BIC amendment and the "457 Plan" amendments were adopted by the Subcommittee on Financial Institutions of the House Banking Committee. The sponsor of the "457 Plan" provision (Congressman Barney Frank) and the BIC amendment (Congressman Richard Neal) discussed the potential overlap in the two provisions as follows:

> Mr. Frank: I would ask if I am correct that this would not interfere with a later amendment I intend to offer on 457 plans, contributory retirement plans for public employees. Some people who read the amendment thought that it was broad in stroke.
>
> I think it is clear what we mean with the BICs. For instance, the 457 plan wouldn't be intended to be excluded [from insurance coverage].
>
> I yield to my friend from Massachusetts.
>
> Mr. Neal of Massachusetts: Thank you, Mr. Chairman.
>
> I intend to support your amendment when it comes up. Years ago I helped to implement a deferred compensation plan.
>
> I trust the spirit of your amendment. I intend to support it. My intention was not to interfere with it.
>
> Mr. Schumer: I agree with that. The 457 analog is not to these [meaning BICs] but to the IRAs.
>
> Mr. Frank: Mr. Chairman, I would note that if both amendments pass, when we get to the technical conforming stage, we would make sure there is no potential conflict between them.
>
> Transcript from Executive Session, Consideration of H.R. 1505 before the Subcommittee on Financial Institutions, Committee on Banking, Finance and Urban Affairs, U.S. House of Representatives, 102nd Congress, 1st Sess. (May 1991).

This colloquy suggests that the sponsors of the BIC and "457 Plan" amendments did not intend "457 Plans" to come within the meaning of the term "employee benefit plan" for the purposes of the BIC provision. Since "457 Plans" are not governed by ERISA and the intent of the drafters of the BIC and "457 Plan" amendments did not intend "457 Plans" to be subject to the BIC provisions, the FDIC has decided to specifically exclude "457 Plans" from the definition of "employee benefit plan" in the BIC provision of the regulations (12 CFR 330.13(b)(2)).

As noted in the preamble to the proposed rule, the definition of "employee benefit plan" expressly includes Keogh plans and thus Keogh plans will be subject to the BIC provisions. A number of commenters expressed concern about the application of the BIC provisions to some Keogh plan deposits that allow penalty-free withdrawals in accordance with certain provisions of the Internal Revenue Code. The issue concerns the meaning of the term "benefit responsive withdrawal or transfer." The term is defined in the statute as

> any withdrawal or transfer of funds (consisting of any portion of the principal and any interest credited at a rate guaranteed by the insured depository institution investment contract) during the period in which any guaranteed rate is in effect, without substantial penalty or adjustment, to pay benefits provided by the employee benefit plan or to permit a plan participant or beneficiary to redirect the investment of his or her account balance.

The issue is whether this term would include penalty-free withdrawals from employee benefit plan deposits which are based on penalty-free withdrawals of funds from the underlying Keogh plans that are permitted upon the death or disability of a plan participant or to pay benefits (permitted at age 59½ or required at age 70½) by the Internal Revenue Code.

The FDIC believes that since the Internal Revenue Code permits and then requires distributions upon the occurrence of certain events and banks have historically permitted penalty-free withdrawals from deposits to permit the employee benefit plan to make such distributions, a rule that would now treat such deposit liabilities as having no insurance would be unfair to depositors. A 71 year-old plan participant might be required to decide between a deposit that is uninsured but allows penalty-free withdrawals and one that is insured but imposes a substantial penalty for any type of withdrawal.

In the preamble to the proposed rule, the FDIC indicated that it did not have enough information about current industry forms or practices to distinguish between investment contracts typically acquired by employee benefit plans and regular certificates of deposit. The FDIC indicated its belief, however, that Congress intended only to address benefit-responsive investment contracts typically acquired by employee benefit plans. Therefore, the FDIC specifically requested comment on how it should define the term "investment contract" so as to exclude regular certificates of deposit if appropriate.

Few commenters provided specific suggestions to the FDIC concerning how the term "investment contract" should be defined. Those who commented on the issue generally supported the FDIC's

proposed approach of excluding regular certificates of deposit from the definition of "investment contract."

After much consideration, the FDIC has decided not to adopt a specific regulatory definition of the term "investment contract." Apparently, there are many different versions of BIC-type instruments currently being utilized by employee benefit plans and insured depository institutions and thus it would be very difficult for the FDIC to adopt a definition which encompasses all such instruments but is, at the same time, no over-inclusive. However, the FDIC still believes that Congress did not intend to include ordinary certificates of deposit in the definition. The FDIC believes that an "investment contract" is generally a separately negotiated deposit agreement between an employee benefit plan and an insured depository institution which has terms that differ, in any material respect, from the terms offered by the insured depository institution for certificates of deposit or other time deposits, and moneymarket accounts or other savings accounts, available to individual retail customers of the insured depository institution.

Another issue concerns how the term "substantial penalty or adjustment" should be defined for purposes of the BIC provision. The FDIC proposed to define the term to mean, in the case of a deposit having an original term which exceeds one year, all interest earned on the amount withdrawn from the date of deposit or for six months, whichever is less, or, in the case of a deposit having an original term of one year or less, all interest earned on the amount withdrawn from the date of deposit or three months, whichever is less. This definition was taken from a former provision of part 329 of the FDIC's regulations, 12 CFR part 329, which required insured banks to impose a substantial penalty for early withdrawal of funds placed in time deposits. Although the requirement that banks impose a substantial penalty for early withdrawals was revoked in 1985, the FDIC believes that many banks still choose to assess such a penalty and that the amount of such penalty is determined in accordance with the rule that was revoked.

Although the FDIC specifically requested comment on the manner in which the term "substantial penalty or adjustment" should be defined for this purpose, few commenters provided suggestions on this issue. One commenter did suggest that we recognize the IRS's early withdrawal penalty for non-authorized withdrawals of plan assets (the penalty is 10% of the principal amount withdrawn) as satisfying the "substantial penalty" provision of the BIC provision. That penalty, however, is paid to the United States Treasury (through the Internal Revenue Service), not the insured institution, and penalizes the plan participant for withdrawing money prior to retirement that was permitted to be invested on a tax-deferred basis on the premise that it would be saved for retirement. Moreover, the BIC provision speaks in terms of imposing a penalty for "any withdrawals" not just "unauthorized withdrawals" (which are the only withdrawals subject to the 10% IRS penalty). Accordingly, the FDIC does not believe that it can view the IRS's 10% penalty for unauthorized withdrawals from employee benefit plans as satisfying the "substantial penalty" part of the BIC provision.

As proposed, the final amendments would also change the references to the Internal Revenue Code in our existing regulations so that such references are to the "Internal Revenue Code of 1986" rather than to the "Internal Revenue Code of 1954." These references are being changed in light of the official name change of the Code made by the Tax Reform Act of 1986.

Accounts Held by Insured Institutions in a Fiduciary Capacity

Section 311(b)(3) of FDICIA substantially reduces the level of insurance coverage available for accounts held by an insured institution in a fiduciary capacity. Under pre-existing FDIC rules, when an insured institution held funds as an agent, nominee, guardian, custodian, conservator, trustee or in any other fiduciary capacity, those funds were insured in the amount of up to $100,000 for the interest of each principal or beneficiary and that insurance was separate from the insurance provided for any other accounts maintained by the principals or beneficiaries at the same insured institution. Section 311(b)(3) of FDICIA amended section 7(i) of the FDI Act, 12 U.S.C. 1817(i), so as to still provide insurance coverage for such accounts on a per-beneficiary basis but to eliminate the separate insurance coverage that was provided for the beneficiaries' interests. In other words, a principal's or beneficiary's interest in such an account will be aggregated with other accounts maintained by that person in the same right and capacity at the same insured institution and the total of that principal's or beneficiary's interests will be insured up to $100,000 in the aggregate. However, section 7(i) still provides separate insurance coverage, in the amount of up to $100,000 per-trust estate, whenever an insured institution is acting as trustee under an irrevocable trust established pursuant to a statute or written trust agreement. This separate insurance coverage is provided both for funds deposited within the fiduciary institution itself and for funds deposited by the fiduciary institution in another insured depository institution. As proposed, the FDIC has amended § 330.10(a) of its regulations, 12 CFR 330.10(a), to reflect these statutory changes. The statutory changes have a two-year delayed effective date and thus the regulatory changes will become effective on December 19, 1993.

Unallocated Trust Funds

Finally, the FDIC has decided to revise the description, in 12 CFR 330.10(b)(2), of how to determine the interest of a particular trust estate in the deposits of unallocated trust funds. The FDIC is not changing the manner in which the calculation is performed, nor the amount of deposit insurance that is currently provided for such funds; we are merely attempting to simplify the description of what is admittedly an extremely difficult concept.

The revised regulatory language in § 330.10(b) is exactly as it was proposed.

Notice Requirements

The FDIC's proposed rules included a provision requiring insured institutions to notify all of their depositors of the impending rule changes. The FDIC proposed this customer notification requirement because the FDIC believed that the changes would affect a substantial number of individuals. The FDIC acknowledged, however, that any customer notification requirement would impose a substantial financial and administrative burden on insured institutions. In an effort to minimize that burden, the FDIC proposed requiring insured institutions to send a short one-time notice to each of its depositors, containing the following language:

> In December, 1993, some of the FDIC's deposit insurance rules will change. The rule changes will primarily affect the total amount of coverage which is provided for IRA, Keogh, self-directed employee benefit plan accounts, "457 Plan" accounts and accounts where an insured institution is acting in a fiduciary capacity. If the total of your interests in all accounts at this institution is less than $100,000, the rule changes will not affect you. For further information, contact [insert "your branch office" or some other contact point for the institutional].

As expected, this proposed customer notification requirement generated more comments than any other provision of

the proposed rules. Out of the 144 comment letters received by the FDIC, 101 addressed the notice requirement, with the vast majority of those (88 out of 101) advocating that we change the requirement so that institutions are required to notify only those customers that they believe would be affected by the rule changes. Some commenters suggested that the FDIC should not require any customer notification at all because it would (1) confuse and alarm depositors, particularly individuals not affected by the changes; (2) cost too much to print and mail the notice to all customers; and/or (3) take up too much staff time both in preparing the notice and answering depositor questions generated by the notice. Many bankers indicated that they simply do not need another expense at this time when banks are struggling to become profitable.

The FDIC fully understands and appreciates the concerns expressed by the many commenters. The FDIC still believes, however, the broad scope of the changes and the substantial number of depositors who are likely to be affected by the changes, some customer notification is warranted. The FDIC will make a concerted effort to make affected depositors aware of the rule changes but the FDIC cannot do the job by itself. Insured depository institutions are in the best position to notify depositors since they generally have regular contact with their depositors. The FDIC wishes to maximize the probability that depositors become aware of the rule changes so that they do not unknowingly have uninsured funds in an insured institution. All too frequently, depositors only find out that they have uninsured funds after an insured institution fails.

In the final rules, the language of the required notice has been modified slightly as a result of a change in the FDIC's interpretation of a statutory provision. The notice to depositors is now required to read as follows:

> In December 1993, some of the FDIC's deposit insurance rules will change. The rule changes will primarily affect the total amount of coverage which is provided for IRA, self-directed Keogh plan accounts, self-directed defined contribution plan accounts, "457 Plan" accounts and accounts where an insured institution is acting in a fiduciary capacity. If you do not have these types of accounts, those rule changes will not affect you. For further information, contact [insert "your branch office" or some other contact point for the institution].

In the preamble to the proposed rule, the FDIC said that it would welcome any suggestions concerning alternative means for notifying depositors of the pending rule changes. Specifically, the FDIC requested comment on the feasibility of institutions identifying and notifying only those customers who have deposit accounts that could potentially be affected by the rule changes. As noted above, many of the commenters seized this opportunity to suggest that the FDIC should require the notice to be sent only to affected customers. A number of bankers have indicated that it may be easier and less expensive for some institutions to identify and notify only those customers that would potentially be affected by the rule changes. Other bankers have indicated that it may be easier and less expensive to notify all of their depositors.

In recognition of the burden that this customer notification imposes on insured institutions, the FDIC has decided to give all insured institutions the option of either notifying all of their depositors or identifying and notifying only those depositors who may potentially be affected by the rule changes. If an institution chooses the latter option, the institution must notify all customers who have the types of accounts affected by the rule changes, not just those who have retirement or other accounts that individually, or in the aggregate, exceed the $100,000 limit. The FDIC expects institutions to make a good faith effort to identify and notify all potentially affected customers if the more limited notification procedure is followed.

The FDIC's proposal would have required that this notice be sent to all account holders no later than June 30, 1993 (with certain exceptions). In light of the fact that most of the rule changes do not become effective until December 19, 1993, and the fact that this final regulation is being published later than originally anticipated, the FDIC has decided to extend the deadline for institutions to provide the required notice to their customers to no later than October 10, 1993.

As stated in the preamble to the proposed rules, the FDIC is requiring that this notice be sent to depositors without materially altering its language. However, under the final rule, institutions have the flexibility to include the required notice on the face of account statements, include it as a separate enclosure with account statements, or send it to depositors in a separate mailing. With respect to any depositor who maintains a time deposit and would not otherwise receive a regular monthly or quarterly account statement prior to October 10, 1993, the required notice would have to be sent to said depositor prior to the later of: (1) 60 days before the first maturity date of that time deposit; or (2) October 10, 1993. This provision provides some flexibility to institutions so that they do not have to complete a special mailing to holders of time deposits that would not ordinarily receive an account statement prior to October 10, 1993.

In the preamble to the proposed rule, we also requested comment on the desirability of institutions posting notices (for a limited time period) in all of their branches and main banking facilities, either on a voluntary or mandatory basis, informing depositors of the pending rule changes. Some bankers commenting on this proposal supported this approach. At this point, however, the FDIC has decided not to require or make available any sort of poster explaining the deposit insurance rule changes since many depositors (especially employee benefit plan administrators) may never enter a bank's lobby and such a notice might not be noticeable among the many notices that are already required to be posted in a bank's lobby.

The FDIC is currently studying additional means by which the FDIC can inform the public about the deposit insurance rule changes and is committed to educating the public while being careful not to unduly alarm depositors. The FDIC recognizes that, because of all the recent publicity concerning failures of insured institutions, some depositors are already quite concerned about the safety of their funds in general and, more specifically, the deposit insurance limits. Accordingly, the FDIC will endeavor to make the public aware of the rule changes without generating unnecessary concern among depositors.

Effective Dates

Section 311(c) of FDICIA specifies the effective dates for the statutory changes section 311 makes to the deposit insurance provisions of the FDI Act. The amendments to section 11(a)(1)(B) of the FDI Act (made by section 311(b)(1) of FDICIA), which contain the basic $100,000 insurance limit, require the FDIC to add together all deposits maintained by a depositor in the same capacity and the same right, and which require the FDIC to provide "pass-through" deposit insurance for certain employee benefit plan deposits, became effective upon enactment of FDICIA on December 19, 1991. However, the exception (in section 11(a)(1)(D)(ii) of the FDI Act (as amended by section 311(b)(1) of FDICIA) which prohibits the FDIC from providing "pass-through" insurance coverage for employee benefit plant deposits made in insured

depository institutions that, at the time the deposits are accepted, could not accept brokered deposits, became effective one year after enactment of FDICIA (on December 19, 1992). [See above discussion].

The new paragraph (8) of section 11(a) of the FDI Act, as added by section 311(a)(1) of FDICIA, which concerns Bank Investment Contracts (BICs) and other similar instruments, becomes effective on December 19, 1993. Likewise, the amendments to section 11(a)(3)(A) of the FDI Act, made by section 311(b)(2) of FDICIA, which required the FDIC to aggregate a depositor's interest in all IRA, self-directed Keogh plan, 457 plan and self-directed defined contribution plans becomes effective on December 19, 1993. Finally, the amendments to section 7(i) of the FDI Act made by section 311(b)(3) of FDICIA concerning funds deposited by insured institutions acting in a fiduciary capacity also becomes effective on December 19, 1993.

"Grandfather" Provisions for Time Deposits

Pursuant to section 311(c)(2) of FDICIA, most time deposits made before December 19, 1991 (the date of enactment) which mature after December 19, 1993 will not be subject to the new rules (with certain limited exceptions) until the first maturity date after December 19, 1993. Any rollover or renewal of a time deposit before December 19, 1993 is deemed to be a new deposit which would not be "grandfathered" (it would be subject to the rules then in effect for new deposits).

The FDIC has also adopted its proposal that, with respect to any time deposit made after December 19, 1991 but before December 19, 1993, the rules in effect at the time the deposit is made would govern the amount of insurance available until the first maturity date after December 19, 1993. Any rollover or renewal of a time deposit during that period would be deemed a new deposit which would be subject to the rules then in effect for new deposits. This "grandfather" provision was adopted to give depositors an opportunity to adjust to the new deposit insurance rule changes and to prevent some depositors who have outstanding time deposits when the rules become effective from having to choose between maintaining an uninsured deposit or withdrawing their funds and paying an early withdrawal penalty.

Regulatory Flexibility Act Statement

The Board of Directors of the FDIC hereby certifies that these amendments to part 330 will not have a significant economic impact on a substantial number of small business entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). In light of this certification, the Regulatory Flexibility Act requirements (at 5 U.S.C. 503, 604) to prepare initial and final regulatory flexibility analyses do not apply.

List of Subjects in 12 CFR Part 330

Bank deposit insurance, Banks, banking, Savings and loan associations, Trusts and trustees.

The Board of Directors of the Federal Deposit Insurance Corporation hereby amends part 330 of title 12 of the Code of Federal Regulations as follows:

PART 330—[AMENDED]

1. The authority citation for part 330 is revised to read as follows:

Authority: 12 U.S.C. 1813(l), 1813(m), 1817(i), 1818(q), 1819[Tenth], 1820(f), 1821(a), 1822(c).

2. Section 330.1(j) is revised to read as follows:

§ 330.1 Definitions.

* * * * *

(j) *Trust funds* means funds held by an insured depository institution as trustee pursuant to any irrevocable trust established pursuant to any statute or written trust agreement.

* * * * *

3. Section 330.2 is revised to read as follows:

§ 330.2 Authority and purpose.

Section 311 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA), Pub. L. 102–242, 105 Stat. 2236, amended sections 3, 7 and 11 of the Federal Deposit Insurance Act (FDI Act), 12 U.S.C. 1813, 1817 and 1821, which govern the amount of deposit insurance provided by the FDIC. Section 311 of FDICIA deleted the provision in section 3 of the Federal Deposit Insurance Act which authorized the FDIC to clarify and define, by regulation, the extent of deposit insurance coverage resulting from subsections 3(m)(1), 3(p), 7(i) and 11(a) of the FDI Act, 12 U.S.C. 1813(m)(1), 1813(p), 1817(i) and 1821(a) and to define the terms used in those sections. However, FDICIA did not change the FDIC's authority, in section 9 [Tenth] of the FDI Act, to prescribe by its Board of Directors such rules and regulations as it may deem necessary to carry out the provisions of the FDI Act or of any other law which it has the responsibility of administering or enforcing (except to the extent that authority to issue such rules and regulations has been expressly and exclusively granted to any other regulatory agency). Moreover, in section 302(d) of FDICIA, Congress added a new subsection to section 10 of the FDI Act which provides that except to the extent that authority under the FDI Act is conferred on any of the Federal banking agencies other than the Corporation, the Corporation may prescribe regulations to carry out the FDI Act and by regulation define terms as necessary to carry out the FDI Act. The purpose of the regulations in this part is to clarify the rules and define the terms employed in affording deposit insurance coverage under the Act and provide rules for the recognition of deposit ownership in various circumstances.

4. Section 330.10 is amended as follows:

a. In paragraph (b) introductory text, by removing "in a fiduciary capacity" and adding in lieu thereof "in its capacity as trustee of an irrevocable trust"; and

b. By revising paragraphs (a) and (b)(2) to read as follows:

§ 330.10 Accounts held by depository institutions in fiduciary capacities.

(a) *Separate insurance coverage.* Trust funds held by an insured depository institution in its capacity as trustee of an irrevocable trust, whether held in its trust department, held or deposited in any other department of the fiduciary institution, or deposited by the fiduciary institution in another insured depository institution, shall be insured up to $100,000 of each owner or beneficiary represented. This insurance shall be separate from, and in addition to, the insurance provided for any other deposits of the owners or the beneficiaries.

(b) * * *

(2) *Interest of a trust estate in unallocated trust funds.* If funds of a particular trust estate are commingled with funds of other trust estates and deposited by the fiduciary institution in one or more insured depository institutions to the credit of the depository institution as fiduciary, without allocation of specific amounts from a particular trust estate to an account in such institution(s), the percentage interest of that trust estate in the unallocated deposits in any institution in default is the same as that trust estate's percentage interest in the entire commingled investment pool.

* * * * *

5. Section 330.12 is revised to read as follows:

§ 330.12 Retirement and other employee benefit plan accounts.

(a) *"Pass-through" insurance.* Except as provided in paragraph (b) of this section, any deposits of an employee benefit plan or of any eligible deferred compensation plan described in section 457 of the Internal Revenue Code of 1986 (26 U.S.C. 457) in an insured depository institution shall be insured on a "pass-through" basis, in the amount of up to $100,000 for the non-contingent interest of each plan participant, provided that the FDIC's recordkeeping requirements, as outlined in § 330.4, are satisfied.

(b) *Exception.* "Pass-through" insurance shall not be provided pursuant to paragraph (a) of this section with respect to any deposit accepted by an insured depository institution which, at the time the deposit is accepted, may not accept brokered deposits pursuant to section 29 of the Act unless, at the time the deposit is accepted:

(1) The institution meets each applicable capital standard; and

(2) The depositor receives a written statement from the institution indicating that such deposits are eligible for insurance coverage on a "pass-through" basis.

(c) *Aggregation—(1) Multiple plans.* Funds representing the non-contingent interests of a beneficiary in an employee benefit plan, or eligible deferred compensation plan described in section 457 of the Internal Revenue Code of 1986, which are deposited in one or more deposit accounts shall be aggregated with any other deposited funds representing such interests of the same beneficiary in other employee benefit plans, or eligible deferred compensation plans described in section 457 of the Internal Revenue Code of 1986, established by the same employer or employee organization.

(2) *Certain retirement accounts.* (i) Deposits in an insured depository institution made in connection with the following types of retirement plans shall be aggregated and insured in the amount of up to $100,000 per participant:

(A) Any individual retirement account described in section 408(a) of the Internal Revenue Code of 1986 (26 U.S.C. 408(a));

(B) Any eligible deferred compensation plan described in section 457 of the Internal Revenue Code of 1986; and

C. Any individual account plan defined in section 3(34) of the Employee Retirement Income Security Act (ERISA) (29 U.S.C. 1002) and any plan described in section 401(d) of the Internal Revenue Code of 1986 (26 U.S.C. 401(d), to the extent that participants and beneficiaries under such plans have the right to direct the investment of assets held in individual accounts maintained on their behalf by the plans.

(ii) The provisions of this paragraph (c) shall not apply with respect to the deposits of any employee benefit plan, or eligible deferred compensation plan described in section 457 of the Internal Revenue Code of 1986, which is not entitled to "pass-through" insurance pursuant to paragraph (b) of this section. Such deposits shall be aggregated and insured in the amount of $100,000 per-plan.

(d) *Determination of interests—(1) Definded contribution plans.* The value of an employee's non-contingent interest in a defined contribution plan shall be deemed to be the employee's account balance as of the date of default of the insured depository institution, regardless of whether said amount was derived, in whole or in part, from contributions of the employee and/or the employer to the account.

(2) *Defined benefit plans.* The value of an employee's non-contingent interest in a defined benefit plan shall be deemed to be the present value of the employee's interest in the plan, evaluated in accordance with the method of calculation ordinarily used under such plan, as of the date of default of the insured depository institution.

(3) *Amounts taken into account.* For the purposes of applying the rule under paragraph (c)(2) of this section, only the present vested and ascertainable interests of each participant in an employee benefit plan or "457 Plan," excluding any remainder interest created by, or as a result of, the plan, shall be taken into account in determining the amount of deposit insurance accorded to the deposits of the plan.

(e) *Treatment of contingent interests.* In the event that employee' interests in an employee benefit plan are not capable of evaluation in accordance with the rules contained in this section, or an account established for any such plan includes amounts for future participants in the plan, payment by the FDIC with respect to all such interests shall not exceed $100,000 in the aggregate.

(f) *Overfunded pension plan deposits.* Any portion(s) of an employee benefit plan's deposits which are not attributable to the interests of the beneficiaries under the plan shall be deemed attributable to the overfunded portion of the plan's assets and shall be aggregated and insured up to $100,000, separately from any other deposits.

(g) *Definitions of "employee benefit plan", "employee organization" and "non-contingent interest".* For purposes of this section:

(1) The term *employee benefit plan* has the same meaning given to such term in section 3(3) of the Employee Retirement Income Security Act of 1974 (ERISA) (29 U.S.C. 1002) and includes any plan described in section 401(d) of the Internal Revenue Code of 1986.

(2) The term *employee organization* means any labor union, organization, employee representation committee, association, group, or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning an employee benefit plan, or other matters incidental to employment relationships; or any employees' beneficiary association organized for the purpose, in whole or in part, of establishing such a plan.

(3) The term *non-contingent interest* means an interest capable of determination without evaluation of contingencies except for those covered by the present worth tables and rules of calculation for their use set forth in § 20.2031–7 of the Federal Estate Tax Regulations (26 CFR 20.2031–7) or any similar present worth or life expectancy tables as may be published by the Internal Revenue Service.

6. Section 330.13 is revised to read as follows:

§ 330.13 Bank investment contracts.

(a) *General rule.* Any liability arising under any insured depository institution investment contract between any insured depository institution and any employee benefit plan which expressly permits benefit-responsive withdrawals or transfers shall not be treated as an "insured deposit" and thus shall not be entitled to deposit insurance.

(b) *Definitions.* For purposes of paragraph (a) of this section:

(1) *Benefit-responsive withdrawals or transfers* means any withdrawal or transfer of funds (consisting of any portion of the principal and any interest credited at a rate guaranteed by the insured depository institution investment contract) during the period in which any guaranteed rate is in effect, without substantial penalty or adjustment, to pay benefits provided by the employee benefit plan or to permit a plan participant or beneficiary to redirect the investment of his or her account balance. This term excludes penalty-free withdrawals from employee benefit plan deposits which are based on penalty-free withdrawals of funds from an employee benefit plan that are permitted or required pursuant to the Employee Retirement Income Security

Act of 1974 or the Internal Revenue Code.

(2) *Employee benefit plan:*

(i) Has the meaning given to such term in section 3(3) of the Employee Retirement Income Security Act of 1974 (ERISA) (29 U.S.C. 1002); and

(ii) Includes any plan described in section 401(d) of the Internal Revenue Code of 1986 (26 U.S.C. 401(d)); and

(iii) Excludes any deferred compensation plan described in section 457 of the Internal Revenue Code of 1986 (26 U.S.C. 457).

(3) *Substantial penalty or adjustment* means, in the case of a deposit having an original term which exceeds one year, all interest earned on the amount withdrawn from the date of deposit or for six months, whichever is less; or, in the case of a deposit having an original term of one year or less, all interest earned on the amount withdrawn from the date of deposit or three months, whichever is less.

7. Section 330.15 is revised to read as follows:

§ 330.15 Notice to depositors.

(a) Each insured depository institution shall send, no later than October 10, 1993 (except as provided in paragraph (b) of this section), a notice to each of its depositors or, at the option of the institution, to all depositors having deposit accounts which could potentially be affected by the rules in this part which are effective December 19, 1993, a notice containing the following language:

In December 1993, some of the FDIC's deposit insurance rules will change. The rule changes will primarily affect the total amount of coverage which is provided for IRA, self-directed Keogh plan accounts, self-directed defined contribution plan accounts, "457 Plan" accounts and accounts where an insured institution is acting in a fiduciary capacity. If you do not have these types of accounts, those rule changes will not affect you. For further information contact [insert "your branch office" or some other contact point for the institution].

(b) The language of this notice may not be materially altered in any way. The required notice may be included on account statements, included as a separate enclosure with account statements or it may be sent to all depositors/accountholders in a separate mailing. With respect to any depositor/accountholder who maintains a time deposit and would not otherwise receive a regular monthly or quarterly account statement prior to October 10, 1993, the required notice may be sent to said depositor/accountholder at any time prior to the later of:

(1) 60 days prior to the first maturity date of that time deposit; or

(2) October 10, 1993.

8. Section 330.16 is revised to read as follows:

§ 330.16 Effective dates.

(a) *Delayed effective dates.* Sections 330.1(j), 330.10(a), 330.12(c), 330.12(d)(3) and 330.13 shall become effective on December 19, 1993.

(b) *Time deposits.* Except with respect to the provisions in § 330.12 (a) and (b), any time deposits made before December 19, 1991 that do not mature until after December 19, 1993, shall be subject to the rules as they existed on the date the deposits were made. Any time deposits made after December 19, 1991 but before December 19, 1993, shall be subject to the rules as they existed on the date the deposits were made. Any rollover or renewal of such time deposits prior to December 19, 1993 shall subject those deposits to the rules in effect on the date of such rollover or renewal. With respect to time deposits which mature only after a prescribed notice period, the provisions of this part shall be effective on the earliest possible maturity date after June 24, 1993 assuming (solely for purposes of this section) that notice had been given on that date.

By order of the Board of Directors.

Dated at Washington, DC, this 11th day of May, 1993.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Exeucitve Secretary.

[FR Doc. 93–12227 Filed 5–24–93; 8:45 am]

BILLING CODE 6714–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90–CE–21–AD; Amendment 39–8586; AD 93–10–06]

Airworthiness Directives; All Piper Aircraft Corporation Model Airplanes Equipped With Wing Lift Struts

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes two airworthiness directives, which currently require repetitively inspecting the wing lift struts and wing lift strut forks for cracks or corrosion on all Piper Aircraft Corporation (Piper) model airplanes equipped with wing lift struts, and replacing any strut or fork found cracked or corroded. The Federal Aviation Administration (FAA) has determined that installing certain wing lift strut and wing lift strut fork designs will eliminate the need for the inspections currently required. This action incorporates the option of repetitively inspecting or replacing the wing lift struts and wing lift strut forks. The actions specified by this AD are intended to prevent in-flight separation of the wing from the airplane caused by corroded wing lift struts or cracked forks.

DATES: Effective July 9, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 9, 1993.

ADDRESSES: Service information that applies to this AD may be obtained from the Piper Aircraft Corporation, 2926 Piper Drive, Vero Beach, Florida 32960. This information may also be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Perry, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, suite 210C, Atlanta, Georgia 30349; Telephone (404) 991–2910; Facsimile (404) 991–3606.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD that would apply to all Piper model airplanes equipped with wing lift struts was published in the **Federal Register** on December 7, 1992 (57 FR 57702). The action proposed to require either repetitively inspecting the wing lift struts and wing lift strut forks for cracks or corrosion and replacing any cracked or corroded strut or fork, or replacing the wing lift struts and wing lift strut forks with a new part of certain design. The proposed actions would be accomplished in accordance with Piper Service Bulletin (SB) No. 910A, dated October 10, 1989, or Piper SB No. 528D, dated October 19, 1990.

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

Three commenters express their agreement with the section of the proposed action that specifies exemption from repetitive inspections if sealed strut assemblies are installed.

Two commenters oppose the change in repetitive inspection intervals from five years to two years. The FAA maintains that the repetitive inspection interval should be changed to two years

because, within a six-month period, two incidents occurred that were caused by progressive corrosion growth. Both of these airplanes were in compliance with the current AD's and the five-year repetitive inspection interval. The proposed AD is unchanged as a result of these comments.

One commenter requests eliminating the repetitive inspection requirements on struts installed in accordance with Supplemental Type Certificate (STC) SA4635NM. Specifications of that STC call for treating the strut with corrosion impedance preservatives and sealing hermetically. The FAA does not concur because there is no way of knowing the condition of the strut prior to the STC alteration. The proposed rule is unchanged as a result of this comment.

One commenter states that the Maule punch test (as specified in Piper SB 528D and Piper SB 910A) is not a reliable means of detecting corrosion, and could actually damage the strut. The FAA does not concur, and has determined that, if performed properly and thoroughly, the Maule punch test is extremely reliable. Strut wall thicknesses are typically between .035 and .039 inches. The force level generated by the Maule tester produces noticeable denting when the strut wall thickness is less than .024 inches. Struts with wall thicknesses under .024 inches generally indicate corrosion presence. The proposed AD is unchanged as a result of this comment.

Another commenter suggests that, in addition to allowing inspection of the struts in accordance with Piper SB 528D or Piper SB 910A, the proposed AD allow inspection in accordance with Piper SB 528B, dated March 10, 1978. Piper SB 528B specifies strut inspection without removing the struts. The commenter states that the accomplishment of Piper SB 528D or Piper SB 910A should only be mandatory if the wing lift struts are removed for strut fork inspection. The FAA does not concur because service history reveals that there is water entering the struts, which goes undetected when the struts are not removed for inspection. The service report of one fatal accident shows that the plane of the fractures and locations and orientations of the most severe areas of corrosion strongly suggested that there was presence of standing water in the struts. The proposed AD is unchanged as a result of this comment.

One commenter disagrees with the initial compliance of 30 calendar days because there is not two full years credit given if the struts have been inspected as required by AD 77–03–08. In addition, the commenter stresses that this initial compliance period may add airplane damage that could occur during strut and fork disassembly, and has the potential for lack of maintenance facilities available for inspections and potential unavailability of parts if the manufacturer received an influx of orders. The commenter suggests that the initial compliance of the proposed AD be revised to allow the operator to inspect: (1) The lift struts two calendar years after the last inspection required by AD 77–03–08; and (2) the forks 500 hours time-in-service (TIS) after the last inspection required by AD 81–25–05. The FAA concurs that credit should be given for the inspections required by the current AD's and has revised the initial compliance of each inspection to include: (1) Struts—within the next 30 calendar days after the effective date of this AD or 2 calendar years after the last inspection accomplished in accordance with AD 77–03–08, whichever occurs later; and (2) forks—within the next 100 hours TIS after the effective date of this AD or 500 hours TIS after the last inspection accomplished in accordance with AD 81–25–05, whichever occurs later. The FAA maintains the 30 day compliance time on the struts so airplanes that have not been inspected for two to five calendar years per AD 77–03–08 are not inadvertently grounded by the two-calendar-year after the last inspection compliance time, while still giving two years credit for previously accomplished inspections.

No comments were received on the proposed rule or the FAA's determination of the cost to the public.

After careful review of all information including the comments discussed above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for the revision of the initial compliance times and minor editorial corrections. The FAA has determined that these revisions and minor corrections will not change the meaning of the AD nor add any additional burden upon the public than was already proposed.

The FAA estimates that 22,000 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 8 workhours per airplane to accomplish the required inspections, and that the average labor rate is approximately $55 an hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $9,680,000. AD 77–03–08 currently requires the same inspections on the wing lift struts and AD 81–25–05 currently requires the same inspections on the wing lift strut forks. Both of these AD's would be superseded by this action, but the cost impact of the initial inspections required by this action upon U.S. operators would be the same ($9,680,000) as is currently required by the superseded actions. The only difference between the requirements of the superseded AD's and the required AD is the option of eliminating or reducing the number of repetitive inspections by installing certain wing lift struts and wing lift strut forks.

The compliance times for the required strut inspections or replacements are presented in calendar time instead of hours time-in-service (TIS). The FAA has determined that a calendar time for the strut inspections or replacements is most desirable because operators of the affected airplanes have already established inspection programs for the struts through AD 77–03–08, Amendment 39–2833. In addition, the strut inspections are to detect corrosion, and corrosion can occur regardless of whether the airplane is in flight. For these reasons, the compliance times for the strut inspections or replacements are presented in calendar time. The compliance time for the fork inspections or replacements is presented in hours TIS.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39

of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§39.13 [Amended]

2. Section 39.13 is amended by removing AD 77–03–08, Amendment 39–2833, and AD 81–25–05, Amendment 39–4276, and adding the following new AD:

93–10–06 Piper Aircraft Corporation: Amendment 39–8586; Docket No. 90–CE–21–AD. Supersedes AD 77–03–08, Amendment 39–2833, and AD 81–25–05, Amendment 39–4276.

Applicability: The following model and serial number airplanes, certificated in any category:

Models and Serial Numbers

J–2 Series
500 through 1975
J–3, NE–1, and L–4
All serial numbers
J–4 Series
4–401 through 4–1649
J–5, J–5C, L–14, AE–1, and HE–1 Series
5–1 through 5–1389
PA–11 Series
11–1 through 11–1678
PA–12 Series
12–1 through 12–4036
PA–14 Series
14–1 through 14–523
PA–15
15–1 through 15–388
PA–16
16–1 through 16–736
PA–17
17–1 through 17–215
PA–18 and PA–18A
18–1 through 18–8309025, 1809001 through 1809032, and 1809034 through 1809040
PA–19
19–1, 19–2, and 19–3
PA–20 Series
20–1 through 20–1121
PA–22 Series
22–1 through 22–9848
PA–25 Series
25–1 through 25–8156024

Compliance: Required as indicated, unless already accomplished.

To prevent in-flight separation of the wing from the airplane caused by corroded wing lift struts or cracked forks, accomplish the following:

(a) Within the next 30 calendar days after the effective date of this AD or within two calendar years after the last inspection accomplished in accordance with AD 77–03–08, whichever occurs later, remove the wing lift struts in accordance with the applicable maintenance manual, and accomplish the actions of either paragraph (a)(1), (a)(2), (a)(3), or (a)(4) below:

(1) Inspect the wing lift struts for corrosion in accordance with the instructions in either Piper Service Bulletin (SB) No. 528D, dated October 19, 1990, or Piper SB No. 910A, dated October 10, 1989, as applicable.

Note 1: Inspection methods such as x-ray or boroscope may be utilized provided they are approved as an alternative method of compliance in accordance with the procedures specified in paragraph (f) of this AD.

(i) If corrosion is not found, reinspect at intervals not to exceed 2 calendar years.

(ii) If corrosion is found, prior to further flight, accomplish either paragraph (a)(2), (a)(3), or (a)(4) of this AD.

(iii) If holes have been drilled in sealed struts to attach cuffs, door clips, or other hardware, reinspect the wing lift struts at intervals not to exceed 2 calendar years.

(2) Install original equipment manufacturer (OEM) part number wing lift struts or FAA-approved equivalent wing lift struts that have been inspected and found airworthy. Inspect these wing lift struts as specified in paragraph (a)(1) of this AD at intervals not to exceed 2 calendar years.

(3) Install new sealed wing lift strut assemblies (part numbers as specified in Piper SB No. 528D or Piper SB No. 910A) or Univair FAA Parts Manufacturer Approved (PMA) equivalent wing lift strut assemblies on each wing.

Note 2: These new sealed wing lift strut assemblies contain both a sealed strut and redesigned fork.

(4) Install F. Atlee Dodge wing lift struts in accordance with the instructions to Supplemental Type Certificate (STC) SA4635NM, and inspect the wing lift struts as specified in paragraph (a)(1) of this AD at intervals not to exceed 5 calendar years.

(b) Within the next 100 hours time-in-service (TIS) after the effective date of this AD or within 500 hours TIS after the last inspection accomplished in accordance with AD 81–25–05, whichever occurs later, remove the wing lift strut forks and accomplish the actions of either paragraph (b)(1), (b)(2), (b)(3), or (b)(4) below:

(1) Inspect the wing lift strut forks using currently approved magnetic procedures.

(i) If no cracks are found, reinspect at intervals not to exceed 500 hours TIS and replace the lift strut forks at the time specified in either paragraph (b)(1)(i)(A) or (b)(1)(i)(B) below:

(A) If airplane is or has been equipped with floats, upon the accumulation of 1,000 hours TIS.

(B) If airplane has never been equipped with floats, upon the accumulation of 2,000 hours TIS.

(ii) Replacement parts shall be of the same part number of the existing part and shall be manufactured with rolled threads or an FAA-approved equivalent part. Lift strut forks manufactured with machined (cut) threads shall not be utilized.

(iii) If cracks are found, prior to further flight, install forks as specified in either paragraph (b)(2), (b)(3), or (b)(4) of this AD.

(2) Install OEM part number wing lift strut forks that have been inspected and found airworthy. Reinspect using currently approved magnetic procedures at intervals specified in paragraph (b)(1) of this AD.

(3) Install new sealed wing lift strut assemblies (part numbers as specified in Piper SB No. 528D or Piper SB No. 910A) or Univair FAA PMA equivalent wing lift strut assemblies on each wing. The installation of these assemblies may have already been accomplished in accordance with paragraph (a)(3) of this AD.

(4) Install F. Atlee Dodge wing lift strut forks in accordance with the instructions to STC SA4635NM.

(c) The installation of new sealed wing lift strut assemblies as specified in paragraphs (a)(3) and (b)(3) of this AD is considered terminating action for the repetitive inspection requirement of this AD.

(d) The installation of F. Atlee Dodge wing lift strut forks as specified in paragraph (b)(4) of this AD is considered terminating action for the repetitive inspection requirement of paragraph (b)(1) of this AD.

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

(f) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, suite 210C, Atlanta, Georgia 30349. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta Aircraft Certification Office.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta Aircraft Certification Office.

(g) The inspections required by this AD shall be done in accordance with Piper Service Bulletin No. 528D, dated October 19, 1990, or Piper Service Bulletin No. 910A, dated October 10, 1989, as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the Piper Aircraft Corporation, 2926 Piper Drive, Vero Beach, Florida 32960. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment (39–8586) supersedes AD 77–03–08, Amendment 39–2833, and AD 81–25–05, Amendment 39–4276.

(i) This amendment (39–8586) becomes effective on July 9, 1993.

Issued in Kansas City, Missouri, on May 17, 1993.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–12295 Filed 5–24–93; 8:45 am]

BILLING CODE 4910–13–U

Coast Guard

33 CFR Part 100

[CGD1 93-035]

Connecticut River Raft Race, Hurd Park to Haddam Meadows, CT

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation of final rule.

SUMMARY: This document puts into effect the permanent regulations, 33 CFR 100.102, for the Connecticut River Raft Race to be held on Saturday, July 31, 1993, from 10 a.m. to 2 p.m. The regulations are needed to control vessel traffic within the immediate vicinity of the event due to the confined nature of the waterway and anticipated congestion at the time of the event. The purpose of this regulation is to provide for the safety of life and property on navigable waters during the event.

EFFECTIVE DATE: The regulations are effective from 10 a.m. to 2 p.m. on July 31, 1993.

FOR FURTHER INFORMATION CONTACT: Lieutenant Eric G. Westerberg, Chief, Boating Safety Affairs Branch, First Coast Guard District, (617) 223-8311.

DRAFTING INFORMATION: The principal persons involved in drafting this document are LT E.G. Westerberg, Project Manager, First Coast Guard District Boating Safety Division, and CDR J. Astley, Project Attorney, First Coast Guard District Legal Office.

SUPPLEMENTARY INFORMATION: This document provides the effective period for the permanent regulation governing the 1993 running of the Connecticut River Raft Race. A portion of the Connecticut River will be closed during the effective period to all vessels in excess of 20 meters (65.6 feet) in length. The regulated area is that area between the Salmon River (Marker no. 48) and Middle Haddam (Marker no. 72). Further public notification, including the full text of the regulations will be accomplished through advance notice in the First Coast Guard District Local Notice to Mariners. The full text of this regulation is found in 33 CFR 100.102.

Dated: May 17, 1993.

J.D. Sipes,

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

[FR Doc. 93-12338 Filed 5-24-93; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 100

[CGD1 93-037]

Harvard-Yale Regatta, Thames River, New London, CT

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The annual Harvard-Yale Regatta is a crew race event held on the Thames River in New London, Connecticut. This regulation temporarily amends the permanent regulation by changing the time for this year's event and establishing a rain date. These regulations are necessary to control vessel traffic within the immediate vicinity of the event due to the confined nature of the waterway and anticipated congestion at the time of the event, thus providing for the safety of life and property on effected navigable waters.

EFFECTIVE DATES: This rule is effective from 4:30 p.m. to 8:30 p.m. on June 5, 1993. If the event is postponed for any reason, the regulations will be effective between the hours of 6 a.m. and 12 a.m. on June 6, 1993.

FOR FURTHER INFORMATION CONTACT: Lieutenant Eric G. Westerberg, Chief Boating Safety Affairs Branch, First Coast Guard District, (617) 223-8310.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this notice are LT E. G. Westerberg, project officer, Chief, Boating Safety Affairs Branch, First Coast Guard District and LCDR J. B. Stieb, project attorney, First Coast Guard District Legal Office.

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. The Harvard-Yale Regatta is a long standing and popular local event. The public is well aware of the terms of this annual event. This regulation merely changes the time of the event and provides for a rain date. Little commercial traffic is known to transit the area. However, sufficient notice will be provided for any affected party to alter plans with minimal impact. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to respond to any potential hazards to the maritime public.

Background and Purpose

The circumstances requiring this regulation result from the desire to protect the boating public from possible dangers and hazards associated with this event. In accordance with the provisions of the permanent regulation governing the conduct of the Harvard-Yale Regatta, a portion of the Thames River will be closed during the effective period to all vessel traffic except participants, official regatta vessels, and patrol craft. The regulated area is that area of the Thames River between Bartlett's Cove and the Penn Central Draw Bridge in New London, Connecticut. This regulation amends the time of the event to between 4:30 p.m. and 8:30 p.m. and establishes a rain date with an effective time of 6 a.m. to 12 a.m. the following day. In order to provide for the safety of spectators and participants, the Coast Guard will restrict vessel movement in the race course area and establish spectator anchorages for what is expected to be a large spectator fleet.

Regulatory Evaluation

This rule constitutes a temporary revision of the permanent regulations governing the running of the Harvard-Yale Regatta published in 33 CFR 100.101, by changing the time of the race and providing for a rain date. The public is fully aware of the terms and conditions of this annual event. Due to infrequent commercial traffic on the applicable portion of the Thames River, the short duration of the race and regional popularity of the event, these regulations are not major under Executive Order 12291 and not significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979). Local commercial entities and the U.S. Navy have been appraised of the race schedule. Vessel traffic may be allowed to transit the regulated area at the discretion of the Patrol Commander.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. For the reasons set forth in the above Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this regulation will not have a significant economic impact on a substantial number of small entities.

Collection of Information

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

Federalism

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

Environment

The Coast Guard has considered the environmental impact of this regulation and concluded that under section 2.B.2.c. of Commandant Instruction M16475.1B it is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Records and recordkeeping requirement, Waterways.

Temporary Regulations

For the reasons set forth in the preamble, the Coast Guard amends part 100 of Title 33, Code of Federal Regulations, as follows:

PART 100—[AMENDED]

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

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

2. Section 100.101(b) is temporarily revised to read as follows:

§ 100.101 Harvard-Yale Regatta, Thames River, New London, CT.

* * * * *

(b) *Effective period.* This section is effective between the hours of 4:30 p.m. and 8:30 p.m. on June 5, 1993. If the races scheduled for June 5, 1993 are postponed, this section will be effective between the hours of 6 a.m. and 12 a.m. on June 6, 1993.

* * * * *

Dated: May 17, 1993.

J.D. Sipes,

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

[FR Doc. 93–12335 Filed 5–24–93; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 100

[CGD 05–93–20]

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

AGENCY: Coast Guard, DOT.

ACTION: Temporary, final rule.

SUMMARY: Special Local Regulations are being adopted for the Sharptown Outboard Regatta to be held on July 3 and 4, 1993, in the Nanticoke River at Sharptown Maryland. These special local regulations are necessary to control vessel traffic in the immediate vicinity of this event. The effect will be to restrict general navigation in the regulated area for the safety of spectators and participants.

EFFECTIVE DATES: The regulations are effective for the following periods: 8 a.m. to 7 p.m., July 3, 1993; 8 a.m. to 7 p.m., July 4, 1993.

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

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for these regulations and good cause exists for making them effective in less than 30 days from the date of publication. Adherence to normal rulemaking procedures would not have been possible. Specifically, the sponsor's application to hold the event was not received in the district office until April 20, 1993, leaving insufficient time to publish a notice of proposed rulemaking in advance of the event.

Drafting Information

The drafters of this notice are QM1 Kevin R. Connors, project officer, Boating Affairs Branch, Fifth Coast Guard District, and LCDR Keith B. Letourneau, project attorney, Fifth Coast Guard District Legal Staff.

Background and Purpose

The Sharptown Recreation Council and the Carolina Virginia Racing Association submitted an application to hold the Sharptown Outboard Regatta. The race will consist of approximately 100 to 150 outboard powered boats under 14 feet in length racing over a closed course on the Nanticoke River near Sharptown, Maryland. As part of the application, the Sharptown Recreation Council and the Carolina Virginia Racing Association requested that the Coast Guard provide control of spectator and river traffic within the regulated area.

Discussion of Regulations

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

Regulatory Evaluation

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

Small Entities

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

Federalism Assessment

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

Environmental Assessment

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

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Temporary Regulations

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

PART 100—[AMENDED]

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

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

2. A temporary section 100.35–T0520 is added to read as follows:

§ 100.35–T0520 Nanticoke River, Sharptown, Maryland.

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

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

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

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

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

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

(3) The Coast Guard Patrol Commander may allow vessels to transit the regulated area whenever a race heat is not being run.

(4) Vessel operators are advised to remain clear of the regulated area during the effective periods of this section.

(c) *Effective periods.* This section is effective for the following periods: 8 a.m. to 7 p.m., July 3, 1993; 8 a.m. to 7 p.m., July 4, 1993.

Dated: May 11, 1993.

W.T. Leland,

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

[FR Doc. 93–12340 Filed 5–24–93; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 100

[CGD1 93–038]

Special Local Regulations: Montauk Grand Prix, Montauk, NY

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary special local regulations for the Montauk Grand Prix, an offshore powerboat race which will take place in Block Island Sound. These regulations restrict access to the area of the race course and are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATES: This temporary regulation is effective from 11 a.m. to 3 p.m. on June 5, 1993. In case of postponement this regulation will be in effect on June 6, 1993, from 11 a.m. to 3 p.m.

FOR FURTHER INFORMATION CONTACT: Lieutenant Eric G. Westerberg, Chief Boating Safety Affairs Branch, (617) 223–8311.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of these regulations are LT E.G. Westerberg, Project Officer, First Coast Guard District Boating Safety Affairs Branch, and LCDR J.B. Stieb, Project Attorney, First Coast Guard District Legal Office.

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) has not been published for these regulations and good cause exist for making them effective less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. The application to hold the event was not received until April 27, 1993 and insufficient time remained to publish proposed rules prior to the event or to provide for a delayed effective date. Publishing a NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to respond to any potential hazards associated with this type of marine event. The event is of such local popularity that delay or cancellation to provide for an NPRM would be against the public interest.

Background and Purpose

The Montauk Grand Prix is a high speed powerboat race which will be held adjacent to Montauk, NY in Block Island Sound. This event will include up to 50 powerboats competing on a rectangular course at speeds approaching 100 M.P.H. This regulation establishes an exclusionary zone for the race course and an anchorage area for spectator craft. The regulated area will be patrolled by the Coast Guard, Coast Guard Auxiliary, sponsor-provided patrols, and state and local law enforcement officials. No vessel, other than participants, spectator craft or those vessels authorized by the Coast Guard Patrol Commander, shall enter the regulated area. Other vessels will be able to transit around the regulated area without interference or delay. The potential hazards to participants, spectators, and transiting vessels are such that in the interest of safety of life on the navigable waters of the United States, the Coast Guard District Commander is issuing special local regulations governing the conduct of the regatta. The circumstances requiring this regulation result from the desire to protect the maritime public from possible hazards associated with high speed powerboat racing.

Regulatory Evaluation

These regulations are not major under Executive Order 12291 and not significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979). The regulated area does not obstruct commercial shipping lanes or harbor entrances. All shore points of Napeague Bay will remain accessible to vessel traffic via alternate routes around the race course. Small craft and recreational vessels will be able to transit around the regulated area to any desirable point of land. The Coast Guard will attempt to minimize any delays for commercial vessels transiting the area. The economic impact of this proposal is expected to be so minimal that a Regulatory Evaluation is unnecessary.

Small Entities

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

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

Collection of Information

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

Federalism

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

Environment

The Coast Guard has considered the environmental impact of this regulation and has concluded under section 2.B.2.c of Commandant Instruction M16475.1B, that it will have no significant impact and is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 100

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

Temporary Regulations

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

PART 100—[AMENDED]

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

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

2. A temporary section 100.35–T0179 is added to read as follows:

§100.35–T0179 Montauk Grand Prix, Montauk, New York.

(a) Regulated area. The regulated area will include waters within the following points:

	Latitude	Longitude
Point 1	41°05.2′ N	71°57.1′ W
Point 2	41°06.4′ N	71°57.9′ W
Point 3	41°04.9′ N	72°02.5′ W
Point 4	41°03.0′ N	72°04.1′ W
Point 5	41°01.8′ N	72°03.2′ W

(b) Special local regulations. (1) No vessel may enter, transit or remain in the regulated area during the effective period of this section unless participating in the event, viewing the event from the designated spectator area, or as authorized by Coast Guard personnel.

(2) Each vessel viewing the event that is not registered with the sponsor as a participant or part of the regatta patrol is considered a spectator vessel. A clearly marked spectator area will be provided within the Eastern edge of the regulated area. All spectator vessels viewing the event from within the regulated area must remain within the designated spectator area.

(3) All persons shall comply with the instructions of the U.S. Coast Guard patrol personnel. Upon hearing five or more blasts from a U.S. Coast Guard vessel, the operator of a vessel shall stop immediately and proceed as directed. U.S. Coast Guard personnel include commissioned, warrant and petty officers of the Coast Guard. Members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation and of other applicable laws.

(c) Effective dates. This section is effective between the hours of 11 a.m. and 3 p.m. on June 5, 1993. In case of inclement weather, this section will be effective between the hours of 11 a.m. and 3 p.m. on June 6, 1993.

Dated: May 17, 1993.

J. D. Sipes,

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

[FR Doc. 93–12336 Filed 5–24–93; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 100

[CGD 09–93–10]

Special Local Regulations: Miller Genuine Draft Offshore Challenge, Lake Ontario, Oswego, NY

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: Special Local Regulations are being adopted for the Miller Geniune Draft Offshore Challenge. This event will be held on Oswego Harbor on June 19, 1993, with a rain date of June 20, 1993. These regulations will restrict general navigation in Oswego Harbor between West Ninemile Point and Oswego, NY. The Miller Genuine Draft Offshore Challenge will have an estimated 50 offshore race boats racing a closed course race on Lake Ontario which could pose hazards to navigation in the area. These regulations are needed to provide for the safety of life, limb, and property on navigable waters during the event.

EFFECTIVE DATE: These regulations are effective from 10 a.m. (e.d.s.t.) until 4 p.m. (e.d.s.t.) on June 19, 1993 with a rain date of June 20, 1993.

FOR FURTHER INFORMATION CONTACT: William A. Thibodeau, Marine Science Technician Second Class, U.S. Coast Guard, Aids to Navigation and Waterways Management Branch, Ninth Coast Guard District, 1240 East 9th Street, Cleveland, Ohio 44199–2060, (216) 522–3990.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a Notice of Proposed Rule Making has not been published for these regulations and good cause exists for making them effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. The application to hold this event was not received by the Commander, Ninth Coast Guard District, until April 26, 1993, and these was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting Information

The drafters of these regulations are William A. Thibodeau, Marine Science Technician Second Class, U.S. Coast Guard, Project Officer, Aids to Navigation and Waterways Management Branch and M. Eric Reeves, Commander, U.S. Coast Guard, Project Attorney, Ninth Coast Guard District Legal Office.

Discussion of Regulations

The Miller Genuine Draft Offshore Challenge will be held on Oswego Harbor between West Ninemile Point and Oswego, NY on June 19, 1993. This event will have an estimated 50 offshore race boats racing a closed course race on Lake Ontario which could post hazards to navigation in the area. The effect of these regulations will be to restrict general navigation on that portion of Lake Ontario, Oswego Harbor, in an area rectangular in shape, from the West Pier Head Light (LLNR 2080) west along the shoreline to West Ninemile Point, extending offshore approximately 1 nautical mile, for the safety of spectators and participants. The Oswego Harbor Entrance will not be affected by these regulations. These regulations are necessary to ensure the protection of life, limb, and property on navigable waters during this event. Any vessel desiring to transit the regulated area may do so only with prior approval of the Patrol Commander (Officer in Charge, U.S. Coast Guard Station Oswego, NY).

These regulations are issued pursuant to 33 U.S.C. 1233 as set out in the authority citation for all of part 100.

Federalism Implications

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

Environment

The Coast Guard has considered the environmental impact of these regulations and concluded that, under section 2.B.2.c of Coast Guard Commandant Instruction M16475.1B, they are categorically excluded from further environmental documentation.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The impact of these regulations is expected to be minimal, and the Coast Guard therefore certifies that, if adopted, they will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq.

Collection of Information

These regulations will impose no collection information requirements under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

List of Subjects in 33 CFR Part 100

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

Temporary Regulations

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

PART 100—[AMENDED]

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

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

2. A tempofary § 100.35–T0967 is added to read as follows:

§ 100.35-T0967 Miller Genuine Draft Offshore Challenge, Lake Ontario, Oswego, NY.

(a) *Regulated area.* That portion of Lake Ontario, Oswego Harbor from the West Pier Head Light (LLNR 2080) west along the shoreline to:

Latitude	Longitude
43° 24.9′ N	076° 37.8′ W, thence to
43° 25.9′ N	076° 38.3′ W, thence to
43° 28.8′ N	076° 31.5′ W, thence to the West Pier Head Light (LLNR 2080.)

(b) *Special local regulations.* This section restricts general navigation in the regulated area for the safety of spectators and participants.

(c) *Patrol Commander.* (1) The Coast Guard will patrol the regulated area under the direction of a designated Coast Guard Patrol Commander, (Officer in Charge, U.S. Coast Guard Station Oswego, NY). The Patrol Commander may be contacted on channel 16 (156.8 MHZ) by the call sign "Coast Guard Patrol Commander".

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

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

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

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

(6) All persons in the area shall comply with the orders of the Coast Guard Patrol Commander.

Effective date. This section will become effective from 10 a.m. (e.d.s.t.) until 4 p.m. (e.d.s.t.) on June 19, 1993, unless the date of the event is changed due to weather. If the date of the event is changed due to weather, this section will become effective at the same time on June 20, 1993, unless the event is cancelled. Notice of change in date or cancellation will be provided in a Broadcast Notice to Mariners.

Dated: May 11, 1993.

G.A. Penington,

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

[FR Doc. 93–12337 Filed 5–24–93; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 117

[CGD8–93–03]

Drawbridge Operation Regulations; Terrebonne Bayou, Louisiana

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Terrebonne Parish Consolidated Government, the Coast Guard is changing the regulation governing the operation of the vertical lift span bridge on State Route 55 across Terrebonne Bayou, mile 27.3, at Klondyke, Terrebonne Parish, Louisiana. The new regulation is similar to operating regulations currently in effect for other bridges in the area. The new regulation requires that at least four hours advance notice be given for an opening of the draw between 9 p.m. and 5 a.m. This action will provide relief to the bridge owner and will still provide for the reasonable needs of navigation.

EFFECTIVE DATE: This regulation becomes effective on June 24, 1993.

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

SUPPLEMENTARY INFORMATION: On March 5, 1993, the Coast Guard published a proposed rule (58 FR 12568) concerning this amendment. The Commander, Eighth Coast Guard District, also published the proposal as a public notice dated March 24, 1993. Interested parties were given until April 19, 1993, to submit comments.

Drafting Information

The drafters of this regulation are Mr. John Wachter, project officer, and CDR D. Dickman, project attorney.

Discussion of Comments

One letter was received in response to Public Notice No. CGD8–02–93. The National Marine Fisheries Service offered no objection to the proposed rule change.

Federalism

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

Economic Assessment and Certification

This regulation is considered to be non-major under Executive Order 12291

on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034: February 26, 1979).

The economic impact of this regulation is expected to be so minimal that a full regulatory evaluation is unnecessary. The basis for this conclusion is that during the regulated period there will be very little inconvenience to vessels using the waterway. In addition, mariners requiring the bridge openings are repeat users of the waterway and scheduling their arrivals to avoid the regulated period should involve little or no additional expense to them. Since the economic impact of this regulation is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

Environment Impact

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

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

2. Section 117.505 is amended by revising paragraph (a) to read as follows:

§ 117.505 Terrebonne Bayou.

(a) The draw of the S58 bridge, mile 22.2 at Montegut, and the draw of the S55 bridge, mile 27.3 at Klondyke, shall open on signal; except that from 9 p.m. to 5 a.m. the draws shall open on signal if at least four hours notice is given.

* * * * *

Dated: May 5, 1993

J.C. Card,

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

[FR Doc. 93–12339 Filed 5–24–93; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NH–6–2–5825; A–1–FRL 4654–4]

Approval and Promulgation of Air Quality Implementation Plans; New Hampshire; Capture Efficiency Test Procedures

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of New Hampshire. This revision corrects deficiencies in the State's volatile organic compound (VOC) regulations in response to EPA's May 25, 1988 Ozone SIP call and the Clean Air Act requirement that States "fix-up" their reasonably available control technology (RACT) rules. In response to this requirement, the New Hampshire Air Resources Division (NHARD) adopted a capture efficiency rule as Part Env–A 805.

New Hampshire's capture efficiency rule specifies test procedures that are required to measure the amount of VOC emissions captured from a regulated source and delivered to a device that removes the VOC. The intended effect of this action is to approve this revision to New Hampshire's SIP which incorporates the current federal RACT requirements for VOC. These RACT corrections are a requirement of the Clean Air Act (CAA) as amended in 1990 (section 182(a)(2)(A)). This action is being taken under section 110 and part D of the Clean Air Act.

EFFECTIVE DATE: This rule will become effective on June 24, 1993.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, One Congress Street, 10th floor, Boston, MA; Jerry Kurtzweg, U.S. Environmental Protection Agency, 401 M Street, SW., (ANR–443) Washington, DC 20460; and New Hampshire Air Resources Division, Department of Environmental Services, 64 North Main Street, Caller Box 2033, Concord, NH 03302–2033.

FOR FURTHER INFORMATION CONTACT: Jeanne Cosgrove, (617) 565–3246.

SUPPLEMENTARY INFORMATION: On January 22, 1993 (58 FR 5695), EPA published a Notice of Proposed Rulemaking (NPR) for the State of New Hampshire. The NPR proposed approval of New Hampshire's capture efficiency test procedures regulation. The formal SIP revision was submitted by New Hampshire on May 15, 1992.

Background

Based on monitored ozone exceedances in New Hampshire, EPA sent letters to the Governor of New Hampshire on May 25, 1988 and November 8, 1989, pursuant to section 110(a)(2)(H) of the pre-amended Clean Air Act, informing him that the New Hampshire SIP was substantially inadequate to achieve the national ambient air quality standard (NAAQS) for ozone in parts of New Hampshire. EPA requested that the State respond to the SIP call in two phases—the first in the near future and the second following EPA's issuance of a final policy on how the States should correct their SIPs. The first phase of the response to the SIP call was meant to consist of (1) correcting identified deficiencies in the existing SIP's VOC regulations, (2) adopting VOC regulations previously required or committed to but never adopted, and (3) updating the area's base year emission inventory.

On June 16, 1988, EPA sent a follow-up letter to the New Hampshire ARD identifying specific technical inadequacies and inconsistencies in New Hampshire's VOC regulations as compared to the requirements of the CAA as interpreted in EPA guidance. One of the noted deficiencies was the lack of a capture efficiency test method. On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. sections 7401–7671q. In amended section 182(a)(2)(A), Congress statutorily adopted the requirement that ozone nonattainment areas fix their deficient RACT rules for ozone. Areas designated nonattainment before enactment of the Amendments and which retained that designation and were classified as marginal or above as of enactment are required to meet the RACT fix-up requirement.

Under section 182(a)(2)(A), those areas were required by May 15, 1991, to correct RACT as it was required under pre-amended section 172(b) as interpreted in EPA's pre-amendment guidance.[1] The SIP call letters

[1] Among other things, the pre-amendment guidance consists of the portions of the Post-87 policy that concern RACT, 52 Fed. Reg. 45044 (Nov. 24, 1987); the Bluebook, "Issues Relating to VOC Regulation Cutpoints, Deficiencies and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register** Notice" (of which notice of availability was published in the **Federal Register**

Continued

interpreted that guidance and indicated corrections necessary for specific nonattainment areas. Portions of New Hampshire are classified as marginal and serious.[2] Therefore, these areas are subject to the RACT fix-up requirement and the May 15, 1991 deadline.

New Hampshire's Revision

In response to the first phase of EPA's SIP call and the section 182(a)(2)(A) requirement, and EPA's June 16, 1988 follow-up letter, on January 17, 1992, New Hampshire adopted a new regulation entitled "Capture Efficiency Test Procedures" (Part Env-A 805).

Other specific requirements of New Hampshire's Capture Efficiency regulation and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. No public comments were received on the NPR.

Final Action

EPA is approving Part Env-A 805 "Capture Efficiency Test Procedures" because it corrects deficiencies listed in EPA's SIP call follow-up letter and is consistent with EPA guidance. Therefore, EPA believes that New Hampshire has met the RACT fix-up requirement that it correct its existing RACT rules to provide a capture efficiency testing procedure.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and Table 3 SIP revisions from the requirements of Section 3 of Executive Order 12291 for a period of two years (54 FR 2222). EPA has submitted a request for a permanent waiver for Table 2 and 3 SIP Revisions. OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State implementation plan. Each request for revision to the State implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 26, 1993. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Incorporation by reference, Ozone.

Note: Incorporation by reference of the State Implementation Plan for the State of New Hampshire was approved by the Director of the Federal Register on July 1, 1982.

Dated: April 21, 1993.

Paul Keough,

Acting Regional Administrator, Region I.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart EE—New Hampshire

2. Section 52.1520 is amended by adding paragraph (c)(47) to read as follows:

§ 52.1520 Identification of plan.

* * * * *

(c) * * *

(47) Revisions to the State Implementation Plan submitted by the New Hampshire Air Resources Division on May 15, 1992.

(i) Incorporation by reference.

(A) Letter from the New Hampshire Air Resources Division dated May 15, 1992 submitting a revision to the New Hampshire State Implementation Plan.

(B) The following portions of the Rules Governing the Control of Air Pollution for the State of New Hampshire effective on January 17, 1992:

—Chapter Env-A 800: Part Env-A 805

—Chapter Env-A 1200: Sections Env-A 1204.02, 1204.04, 1204.05–1204.08, 1204.14–1204.15.

3. Table 52.1525 is amended by adding the following entries.

TABLE 52.1525.—EPA-APPROVED RULES AND REGULATIONS-NEW HAMPSHIRE

Title/subject	State citation chapter	Date adopted State	Date approved EPA	Federal Register citation	52.1520	Comments
*	*	*	*	*	*	*
Testing Requirements	CH air 800	1/17/92	[Insert date this revision is published in *FR*].	[Insert *FR* citation from published date].	c(47)	Part Env-A 805 Capture Efficiency Test Procedures
*	*	*	*	*	*	*
Prevention, Abatement and Control of Stationary Source Air Pollution.	CH air 1200 ..	1/17/92	[Insert date this revision is published in *FR*].	[Insert *FR* citation from published date].	c(47)	Part Env-A Sections 1204.02; 1204.04; 1204.05 through 1204.08; 1204.14 through 1204.15.

[FR Doc. 93–12297 Filed 5–24–93; 8:45 am]

BILLING CODE 6560–50–P

on May 25, 1988); and the existing control technique guidelines (CTGs).

[2] These areas were designated as nonattainment prior to enactment of the amended Act. They retained their designation of nonattainment and were classified by operation of law pursuant to sections 107(d) and 181(a) upon enactment of the Amendments. 56 FR 56694.

40 CFR Part 52

[Region II Docket No. 116 NJ 10-1-5648; FRL-4619-5]

Approval and Promulgation of Implementation Plans; Revision to the New Jersey State Implementation Plan for Ozone

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is announcing an approval of a request by New Jersey to revise its State Implementation Plan (SIP) related to the control of volatile organic compound (VOC) emissions from architectural coatings. This revision was prepared by the New Jersey Department of Environmental Protection and Energy (NJDEPE) pursuant to a SIP commitment to reduce ozone levels in the State of New Jersey. EPA is approving this submittal as meeting New Jersey's 1983 SIP commitment to regulate architectural coatings. This rule incorporates into the New Jersey SIP a revised regulation, Subchapter 23, "Volatile Organic Substances in Consumer Products," which will reduce VOC emissions resulting from the use of architectural surface coatings. EPA has evaluated and approves Subchapter 23 under section 110(k)(3) of the 1990 Clean Air Act as meeting the applicable requirements of section 110(a) and part D of the Act.

DATES: This action will be effective on July 26, 1993 unless notice is received by June 24, 1993 that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: All comments should be addressed to: William J. Muszynski, P.E., Acting Regional Administrator, Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278.

Copies of the State submittal are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region II Office, Air Programs Branch, 26 Federal Plaza, room 1034, New York, New York 10278.

New Jersey Department of Environmental Protection and Energy, Office of Energy, Bureau of Air Quality Planning, 401 East State Street, CN027, Trenton, New Jersey 08625.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, 26 Federal Plaza, room 1034, New York, New York 10278; (212) 264-2517.

SUPPLEMENTARY INFORMATION:

Background

In an earlier comprehensive State Implementation Plan (SIP) revision for ozone, which was submitted to the Environmental Protection Agency (EPA) on September 26, 1983 and approved by EPA on November 6, 1983 (48 FR 51472), the State of New Jersey committed to adopt measures to control the emissions of volatile organic compounds (VOCs) into the ambient air. These measures included air pollution source categories covered by EPA's Control Techniques Guidelines (CTGs) and other larger sources not addressed by a CTG. In addition, the State committed to adopt other "reasonably available" control measures and specific "extraordinary" control measures. VOC emission reductions obtained from the implementation of these measures are needed by the State in order to attain the national ambient air quality standards (NAAQS) for ozone.

Today's rule concerns one of the "extraordinary" control measures, concerning the regulation of the solvent content of architectural surface coatings. These controls appear in revisions to Chapter 27, Title 7 of the New Jersey Administrative Code (N.J.A.C. 7:27) Subchapter 23, entitled "Volatile Organic Substances in Consumer Products," which provides for the regulation of the VOC content of architectural surface coatings sold, offered for sale or used in New Jersey. At this time Subchapter 23 only regulates architectural surface coatings and this is the only source category dealt with by today's rule.

The State Submittal

On July 30, 1990, the New Jersey Department of Environmental Protection and Energy (NJDEPE) submitted to EPA adopted Subchapter 23. The revisions were adopted by the State in three parts (the original proposal and two subsequent amendments), with respective effective dates of February 21, 1989, December 12, 1989, and August 9, 1990. It should be noted that the August 9, 1990 amendment deleted portions of the regulation that dealt with VOC emissions from air fresheners. The air freshener regulations were part of the original February 21, 1989 proposal. They were deleted because the Appellate Division of the Superior Court of New Jersey ruled that "the rule as adopted differs so substantially from the rule as proposed that it violates the Administrative Procedures Act." EPA expects the State to readopt the provisions dealing with air fresheners and submit them as a SIP revision at some future date. The elimination of the air freshener provisions does not preclude action on the architectural coating limits.

The following is a summary of EPA's review and findings concerning Subchapter 23. EPA has not published guidance for regulating architectural coatings; therefore, New Jersey made an independent determination of what were reasonably available control measures for these coatings. EPA's review is based on an evaluation of New Jersey's technical basis and justification for the regulation.

Findings

Subchapter 23 provides for the regulation of architectural surface coatings sold, offered for resale, or used in New Jersey. Architectural surface coatings are defined to include any coating applied to stationary structures, mobile homes, pavements or curbs. These coatings usually are not applied in a factory or manufacturing operation.

The regulation does not apply to coatings manufactured for shipment and sale outside of the State or to containers with a capacity of less than one quart.

In developing this rule, NJDEPE relied on studies and technical material developed during the regulatory process, as well as on documents and regulations prepared by government entities in California. The NJDEPE estimated that this regulation will result in a minimum of 5,900 tons per year of VOC emission reductions.

The February 21, 1989 rule established the VOC content limit for 14 types of architectural coatings (designated as Group I coatings) and set a compliance date of January 1, 1990. The December 12, 1989 amendment established the VOC content limit for 16 additional types of architectural coatings (designated as Group II coatings) and set a compliance date of February 28, 1990. The August 9, 1990 amendment added a "grandfather clause" to the rule allowing manufacturers and retailers time to sell existing stocks of products that were manufactured before January 1, 1990 for Group I coatings and February 28, 1990 for Group II coatings.

The regulation establishes a general limit of 2.1 lbs of VOC per gallon of coating (250 grams of VOC per liter of

coating), excluding water and colorant added to tint bases. Bituminous pavement sealers are limited to water emulsion-type coatings. There is a limit of 3.2 lbs of VOC per gallon of coating (380 grams per liter of VOC) for non-flat coatings. In addition, there are a number of specialty coating limits.

The VOC content limitations and definitions are generally consistent with the regulations that were in effect in California at the time the regulation was proposed. California has revised its regulation since New Jersey adopted Subchapter 23, in order to phase in new emission limits with time. Subchapter 23 establishes limits for many specialty coatings that were previously exempt in California, but which will now be regulated as part of the revised California regulation.

Section 183(e) of the CAA requires EPA to develop either national regulations or a CTG for consumer and commercial products including architectural coatings by November 15, 1995. If EPA promulgates a federal regulation for architectural coatings, sources within New Jersey would be required to comply with the federal regulation. New Jersey does retain the right to promulgate regulations that are more stringent than either a federal regulation or a CTG.

In order to determine compliance, Subchapter 23 identifies test methods similar to EPA's Method 24, "Determination of Volatile Matter Content, Water Content, Density, Volume Solids and Weight Solids of Surface Coatings." Subchapter 23 also allows NJDEPE to approve the use of alternative test methods. As a general rule, EPA cannot fully approve a rule that contains a provision that does not provide for EPA review and approval of alternative methods. However, EPA believes that this revision is subject to NJDEPE's general interpretation of its Subchapter 27 testing provisions. EPA approved a revision to these test procedures on October 7, 1991 (56 FR 56516). With its revision to the testing procedures, NJDEPE submitted a letter providing that all alternative test methods must be submitted to and approved by EPA before they will become a part of the federally-enforceable SIP. EPA believes that this interpretation applies to the test methods at issue today and that the test method provision should not affect EPA's proposed full approval of the architectural regulation.

Subchapter 23 also requires manufacturers' to place labels on any side of the container except the bottom. These labels must contain the manufacturer's recommendation regarding thinning of the coating. The label must also specify the maximum pounds of VOC in a gallon of architectural coating excluding water and any colorant added to tint bases and after recommended thinning.

Conclusion

EPA is approving the New Jersey architectural coating regulation as meeting the commitment made by the State in its 1983 SIP.

Nothing in this rule should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

EPA is publishing this rule without prior proposal because EPA views this as a noncontroversial amendment and anticipates no adverse comments. This rule will be effective July 26, 1993 unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted.

If such notice is received, this rule will be withdrawn before the effective date by publishing two subsequent actions. One action will withdraw this rule and another will begin a new rulemaking by announcing a proposal of this rule and establishing a comment period. If no such comments are received, the public is advised that this rule will be effective July 26, 1993.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and Subchapter I, Part D of the Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moveover, due to the nature of the federal-state relationship under the Clean Air Act, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *US EPA*, 427 US 246, 256–66 (S. Ct. 1976); 42 U.S.C. 7410(a)(2).

This rule has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for a period of two years. EPA has submitted a request for a permanent waiver for Table 2 and 3 SIP revisions from the requirements of Section 3 of Executive Order 12291. OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request.

Under section 307(b)(1) of the Act, petitions for judicial review of this rule must be filed in the United States Court of Appeals for the appropriate circuit within 60 days from date of publication. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This rule may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Incorporation by reference, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 12, 1993.

William J. Muszynski,

Acting Regional Administrator.

Title 40, chapter I, part 52, Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart FF—New Jersey

2. Section 52.1570 is amended by adding new paragraph (c)(50) to read as follows:

§ 52.1570 Identification of plan.

* * * * *

(c) * * *

* * * * * *

(50) Regulation entitled "Volatile Organic Substances in Consumer Products" N.J.A.C. 7–27–23.1 *et seq.*, dated July 30, 1990, submitted by the New Jersey Department of Environmental Protection and Energy (NJDEPE).

(i) Incorporation by reference: (A) Title 7, Chapter 27, Subchapter 23 of the New Jersey Administrative Code, entitled "Volatile Organic Substances in Consumer Products" effective February 21, 1989.

(B) Amendment to Title 7, Chapter 27, Subchapter 23 of the New Jersey Administrative Code, entitled "Volatile Organic Substances in Consumer Products" effective December 12, 1989.

(C) Amendment to Title 7, Chapter 27, Subchapter 23 of the New Jersey Administrative Code, entitled "Volatile Organic Substances in Consumer Products" effective August 9, 1990.

(ii) Additional material: (A) July 30, 1990 letter from Anthony J. McMahon, NJDEPE, to Conrad Simon, EPA, requesting EPA approval of Subchapter 23.

3. Section 52.1605 is amended by adding the entry, for Subchapter 23, to the table in numerical order as follows for Title 7, Chapter 27: Subchapter 23:

§ 52.1605 EPA-approved New Jersey State regulations.

State regulation	State effective date	EPA approved date	Comments
* * * * *	*	*	*
Title 7, Chapter 27			
* * * * *	*	*	*
Subchapter 23, "Volatile Organic Substances in Consumer Products".	August 9, 1990	[Insert FR publication date and citation of this notice].	
* * * * *	*	*	*

[FR Doc. 93–12296 Filed 5–24–93; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA–7571]

Suspension of Community Eligibility

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the Federal Register.

EFFECTIVE DATES: The effective date of each community's suspension is the third date ("Susp.") listed in the fourth column of the following tables.

ADDRESSES: If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

FOR FURTHER INFORMATION CONTACT: James Ross MacKay, Acting Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, 500 C Street, SW., room 417, Washington, DC 20472, (202) 646–2717.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 et seq., unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59 et seq. Accordingly, the communities will be suspended on the effective date in the fourth column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the Federal Register.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM if one has been published, is indicated in the fifth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.

National Environmental Policy Act

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

Regulatory Flexibility Act

The Federal Insurance Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless they take remedial action.

Regulatory Impact Analysis

This rule is not a major rule under Executive Order 12291, Federal Regulation, February 17, 1981, 3 CFR, 1981 Comp., p. 127. No regulatory impact analysis has been prepared.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

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

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

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State and Location	Community No.	Effective date of authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
Regular Program Conversions				
Region I				
Maine:				
Abington, town of Plymouth County	250259	Mar. 6, 1974, Emerg.; Sept. 30, 1977, Reg.; June 2, 1993, Susp.	June 2, 1993	June 2, 1993.
Middlefield, town of Hampshire County.	250166	Jan. 22, 1976, Emerg.; Jan. 3, 1986, Reg.; June 2, 1993, Susp.	.....do	Do.
North Andover, town of Essex County	250098	July 2, 1975, Emerg.; June 15, 1983, Reg.; June 2, 1993, Susp.	.....do	Do.
Pepperell, town of Middlesex County .	250210	Jan. 29, 1975, Emerg.; July 2, 1981, Reg.; June 2, 1993, Susp.	.....do	Do.
Region II				
New York:				
Bainbridge, village of Chenango County.	360158	Dec. 4, 1974, Emerg.; Oct. 5, 1984, Reg.; June 2, 1993, Susp.	.....do	Do.
Champion, town of Jefferson County ..	360328	May 27, 1981, Emerg.; July 16, 1982, Reg.; June 2, 1993, Susp.	.....do	Do.
Canton, town of St. Lawrence County	361172	June 9, 1975, Emerg.; Dec. 19, 1984, Reg.; June 2, 1993, Susp.	.....do	Do.
Region I				
Massachusetts: Webster, town of Worcester County.	250343	July 28, 1975, Emerg.; July 5, 1982, Reg.; June 16, 1993, Susp.	June 16, 1993	June 16, 1993.
New Hampshire: Hampstead, town of Rockingham County.	330211	May 6, 1976, Emerg.; June 16, 1993, Reg.; June 16, 1993, Susp.	.....do	Do.
Region II				
New York: Milton, town of Saratoga County.	360722	June 26, 1975, Emerg.; May 15, 1985, Reg.; June 16, 1993, Susp.	.....do	Do.
Region IV				
Florida: Charlotte County, unincorporated areas.	120061	Aug. 6, 1971, Emerg.; Aug. 6, 1971, Reg.; June 16, 1993, Susp.	.....do	Do.
Mississippi: Rankin, County, unincorporated areas.	280142	July 1, 1974, Emerg.; Dec. 15, 1982, Reg.; June 16, 1993, Susp.	.....do	Do.
Region V				
Michigan: Fraser, township of Bay County	260657	Nov. 13, 1981, Emerg.; Nov. 13, 1981, Reg.; June 16, 1993, Susp.		

State and Location	Community No.	Effective date of authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
Region VI				
Texas:				
Austin, city of Travis and Williamson County.	480624	May 5, 1975, Emerg.; Sept. 2, 1981, Reg.; June 16, 1993, Susp.	.....do	Do.
Hays County, unincorporated areas ...	480321	Sept. 23, 1982, Emerg.; June 16, 1993, Reg.; June 16, 1993, Susp.	.....do	Do.
Manor, city of Travis County	481027	June 13, 1975, Emerg.; May 25, 1978, Reg.; June 16, 1993, Susp.	.....do	Do.
Travis County, unincorporated areas ..	481026	Jan. 29, 1976, Emerg.; Apr. 1, 1982, Reg.; June 16, 1993, Susp.	.....do	Do.
Region IX				
Arizona: St. Johns, city of Apache County	040010	Apr. 24, 1975, Emerg.; Mar. 30, 1981, Reg.; June 16, 1993, Susp.	.....do	Do.

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

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

Issued: May 12, 1993.

Francis V. Reilly,

Deputy Administrator, Federal Insurance Administration.

[FR Doc. 93–12332 Filed 5–24–93; 8:45 am]

BILLING CODE 6718–21–P

44 CFR Part 64

[Docket No. FEMA–7572]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The dates listed in the fourth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the NFIP at: Post Office Box 457, Lanham, MD 20706, (800) 638–7418.

FOR FURTHER INFORMATION CONTACT: James Ross MacKay, Acting Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, 500 C Street, SW., room 417, Washington, DC 20472, (202) 646–2717.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM). The date of the flood map, if one has been published, is indicated in the fifth column of the table. In the communities listed where a flood map has been published, section 102 of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012(a), requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard areas shown on the map.

The Director finds that the delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

National Environmental Policy Act

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

Regulatory Flexibility Act

The Federal Insurance Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities in accordance with the Regulatory Flexibility Act, 5 U. S. C. 601 et seq., because the rule creates no additional burden, but lists those communities eligible for the sale of flood insurance.

Regulatory Impact Analysis

This rule is not a major rule under Executive Order 11291, Federal Regulation, February 17, 1981, 3 CFR, 1981 Comp., p. 127. No regulatory impact analysis has been prepared.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

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

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

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date of authorization/cancellation of sale of flood insurance in community	Current effective map date
New Eligibles—Emergency Program			
Tennessee: Polk County, unincorporated areas	470261	Apr. 9, 1993	Jan. 19, 1979.
Michigan: Leroy, township of Ingham County	260906	Apr. 19, 1993	
Indiana: Dupont, town of Jefferson County	180106	.....do	Nov. 29, 1974.
Georgia: Whitesburg, city of Carroll County	130503	Apr. 23, 1993	
Illinois: Williamson County, unincorporated areas	170934	Apr. 29, 1993	Aug. 17, 1979.
Reinstatements—Regular Program			
New York:			
Butler, town of Wayne County	361445	Feb. 1, 1980, Emerg.; July 9, 1982, Reg.; Nov. 4, 1992, Susp.; Apr. 2, 1993, Rein.	July 9, 1982.
DePeyster, town of St. Lawrence County	361175	Nov. 4, 1976, Emerg.; July 23, 1982, Reg.; Nov. 4, 1992, Susp.; Apr. 2, 1993, Rein.	July 23, 1982.
Long Lake, town of Hamilton County	361406	Nov. 7, 1983, Emerg.; Sep. 24, 1984, Reg.; Nov. 4, 1992, Susp.; Apr. 2, 1993, Rein.	Sept. 24, 1984.
Florida: Horseshoe Beach, town of Dixie County	120326	July 25, 1975, Emerg.; Nov. 2, 1983, Reg.; Nov. 2, 1983, Susp.; Apr. 2, 1993, Rein.	Nov. 2, 1983.
New Hampshire: Middleton, town of Strafford County	330222	Oct. 30, 1984, Emerg.; Aug. 1, 1988, Reg.; Aug. 1, 1988, Susp.; Apr. 8, 1993, Rein.	Aug. 1, 1988.
Tennessee: Cocke County, unincorporated areas	470033	Mar. 14, 1978, Emerg.; Jan. 6, 1988, Reg.; Jan. 6, 1988, Susp.; May 6, 1988, Rein.; Aug. 18, 1982, Susp.; May 8, 1993, Rein.	Aug. 18, 1992.
New York:			
Hopkinton, town of St. Lawrence County	361179	Apr. 29, 1981, Emerg.; Nov. 12, 1982, Reg.; Nov. 4, 1992, Susp.; Apr. 9, 1993, Rein.	Nov. 12, 1992.
Leon, town of St. Lawrence County	360080	Mar. 24, 1981, Emerg.; Aug. 13, 1982, Reg.; Nov. 4, 1992, Susp.; Apr. 9, 1993, Rein.	Aug. 13, 1982.
Newcomb, town of Essex County	361390	Apr. 15, 1976, Emerg.; June 5, 1985, Reg.; Nov. 4, 1992, Susp.; Apr. 9, 1993, Rein.	Jan. 19, 1979.
Nebraska: Synder, village of Dodge County	310319	Nov. 1, 1979, Emerg.; Nov. 1, 1979, Rein.; June 19, 1989, Susp.; Apr. 20, 1993, Rein.	Nov. 1, 1979.
New York: Adams, village of Jefferson County	360325	May 21, 1975, Emerg.; June 19, 1985, Rein.; June 19, 1985, Susp.; July 11, 1985, Rein.; Nov. 4, 1992, Susp.; Apr. 27, 1993, Rein.	June 19, 1985.
Illinois: Robbins, village of Cook County	170154	July 19, 1974, Emerg.; Sept. 29, 1978, Rein.; Mar. 15, 1993, Susp.; Apr. 29, 1993, Rein.	Sept. 29, 1978.
West Virginia: Belle, town of Kanawha County	540071	July 16, 1975, Emerg.; Apr. 15, 1982, Rein.; Nov. 18, 1992, Susp.; Apr. 29, 1993, Rein.	Apr. 15, 1982.
Washington: Adams County, unincorporated areas	530001	Feb. 26, 1975, Emerg.; Oct. 1, 1990, Rein.; Oct. 1, 1990, Susp.; Apr. 27, 1993, Rein.	Oct. 1, 1990.
Suspensions			
Minimal Conversions—Region V			
Indiana: La Porte, city of La Porte County	180490	Apr. 1, 1993, suspension withdrawn	Apr, 1, 1993.
Regular Conversions—Region I			
Maine:			
Sangerville, town of Piscataquis County	230413	Apr. 2, 1993, suspension withdrawn	Apr. 2, 1993.
Sebec, town of Piscataquis County	230414	.....do	Do.
Region IV			
North Carolina:			
Dare County, unincorporated areas	375348	.....do	Do.
Kill Devil Hills, town of Dare County	375353	.....do	Do.
Kitty Hawk, town of Dare County	370439	.....do	Do.
Nags Head, town of Dare County	375356	.....do	Do.
Region V			
Illinois:			
Will County, unincorporated areas	170695	.....do	Do.
Huntley, village of McHenry and Kane Counties	170480	.....do	Dec. 15, 1992.
Michigan: Kawkawlin, township of Bay County	260658	.....do	Apr. 2, 1993.
Region VII			
Missouri: Lincoln County, unincorporated areas	290869	.....do	Do.

State and location	Community No.	Effective date of authorization/cancellation of sale of flood insurance in community	Current effective map date
Region I			
New Hampshire: Lyme, town of Grafton County	330067	Apr. 16, 1993, suspension withdrawn	Apr. 16, 1993.
Region V			
Michigan:			
Standish, township of Arenac County	260017	.....do	Do.
Buchanan, city of Berrien County	260554	.....do	Do.
Region X			
Idaho: Boise, city of Ada County	160002	.....do	Do.

Code for reading fourth column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension; Rein.—Reinstatement.

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

Issued: May 10, 1993.

Francis V. Reilly,

Deputy Administrator, Federal Insurance Administration.

[FR Doc. 93–12331 Filed 5–24–93; 8:45 am]

BILLING CODE 6718–21–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 400

Refugee Resettlement Program: Refugee Cash Assistance and Refugee Medical Assistance

AGENCY: Office of Refugee Resettlement, Administration for Children and Families (ACF), HHS.

ACTION: Delay of effective date.

SUMMARY: This rule delays the effective date from June 1, 1993, to August 1, 1993, of the final rule that was published in the **Federal Register** on March 31, 1993 (58 FR 16777), to reduce the duration of the special programs of refugee cash assistance (RCA) and refugee medical assistance (RMA) from a refugee's first 8 months in the United States to a refugee's first 3 months. The Department has determined that sufficient funds are available to continue an 8-month RCA/RMA eligibility period until August 1, 1993, based on the following factors: First, recent FY 1992 State recipient data indicate a higher number of recipients than originally estimated, resulting in a lower per capita cost for FY 1992. Since FY 1993 estimates are based in part on FY 1992 actual cost and recipient data, the FY 1993 estimate was adjusted accordingly to reflect the lower per capita cost in FY 1992. Second, after fully meeting the funding requests for FY 1993 matching grants to voluntary agencies, nearly $9 million in additional funds have been made available for the RCA/RMA program. This results from a lower level of FY 1993 funding needed for the matching grant program than originally anticipated.

The Department is hopeful that supplemental funds will be made available before August 1 to enable continuation of an 8-month RCA/RMA eligibility period for the remainder of the fiscal year.

Under the Secretary's authority, the effective date of the final rule is delayed until August 1, 1993. The RCA and RMA eligibility period remains at the current level of a refugee's first 8 months in the U.S. until August 1, 1993.

EFFECTIVE DATE: Effective May 25, 1993, the effective date of the final rule amending 45 CFR part 400 published at 58 FR 16777 is delayed until August 1, 1993.

FOR FURTHER INFORMATION CONTACT: Toyo Biddle (202) 401–9250.

Dated: May 6, 1993.

Laurence J. Love,

Acting Assistant Secretary for Children and Families.

Approved: May 12, 1993.

Donna E. Shalala,

Secretary, Department of Health and Human Services.

[FR Doc. 93–12263 Filed 5–24–93; 8:45 am]

BILLING CODE 4184–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 92–305; FCC 93–235]

TV Transmission Standards

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission amends its television technical standards to provide for the transmission of a ghost-cancelling reference signal and enhanced closed-captioning service. This action is necessary to respond to respective petitions filed by the Electronic Industries Association and the American Television Systems Committee, as well as subsequent comments filed in response to the Notice of Proposed Rule Making in this proceeding, which requested the Commission to update the TV technical rules to provide for new services made possible by advancements in television technology. The intended effect of the action is to significantly improve the performance and versatility of television receivers.

EFFECTIVE DATE: June 30, 1993.

FOR FURTHER INFORMATION CONTACT: James E. McNally, Jr., Mass Media Bureau, Engineering Policy Branch, (202) 632–9660.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order in MM Docket No. 92–305 adopted May 5, 1993, and released on May 10, 1993. The complete text of the Report and Order is available for inspection and copying during normal business hours in the FCC Reference Center, room 239, 1919 M Street NW., Washington, DC, and may be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street NW, Washington, DC 20037.

Synopsis of Report and Order

1. By this Report and Order, the Commission amends §§ 73.682 and 73.699 of its rules to reserve use of line 19 of the vertical blanking interval (VBI) for the optional but exclusive use of a ghost-cancelling reference (GCR) signal developed by the North American Phillips Corporation. Because of their complexity and reduced need of reference availability once implemented, the technical standards relating to the GCR have been released in OET Bulletin No. 68. The vertical interval reference (VIR) signal formerly permitted on line 19 may be relocated to any of VBI lines 10 through 16 without specific Commission authorization, provided there is no degradation in picture quality.

2. The new rules also permit the transmission of expanded closed-captioning and other types of information using all of line 21, field 2, of the VBI. The use of both fields of line 21 will permit the transmission of two levels of captioning (or captioning in two different languages) plus additional text which may or may not be caption-related. Non-caption-related text services are generally termed "extended data services" (EDS) and are secondary in priority to captioning.

3. Without exception, the comments filed in response to the Notice of Proposed Rulemaking (Notice), 58 FR 3004 (January 7, 1993), in this proceeding favored either or both of the actions described above. The action being taken is clearly perceived as a considerable enhancement of current television service. (While the circuitry required to take advantage of these enhancements is not available on current television receivers, it is expected to be available in the near future.)

4. While support for the proposed rule changes was unanimous, several ancillary issues drew considerable discussion. For example, with respect to the implementation of the ghost-cancelling reference signal on line 19, of the VBI, several commenters indicated ongoing use of the VIR signal for picture color quality control in program delivery links and therefore requested that the Commission permit relocation of the VIR currently to any of lines 10 through 16 without any specific request being required on the part of television station licensees (normally, services authorized on lines 10 through 16 require the Commission's specific authorization). This request is granted, subject to the condition that the relocation of the VIR result in no visible degradation of the television picture.

5. With respect to line 21, the Notice had requested comments on a proposal by the National Captioning Institute (NCI) that priority of use of line 21 be formalized through the adoption of definitions for (in order of descending priority) "captions," "text," and "extended data services." While NCI continued to support such a policy, the other commenters expressed the opinion that the proposed definitions were either unnecessary, ambiguous or premature. After reviewing the current provisions in § 73.682(a)(22) which relate to captioning on line 21, the Commission concluded that further emphasis on the priorities of line 21 services was unnecessary. Therefore, the rules were adopted as proposed except for a minor editorial change suggested by Caption America in its reply comments.

6. NCI also requested that the Commision adopt a requirement that the provision of extended data services not noticeably affect caption "appear time" (i.e., the difference between the time words are spoken in the program and the time they actually appear as captions). Again, however, other commenters opposed the proposal as being so vague as to be meaningless, potentially burdensome to broadcasters (who could be required to remedy deficiencies in caption appear time introduced at the time of program production) and unnecessary in view of current industry practices and encoding equipment design. Accordingly, the Commission concurred with the majority opinion and declined to adopt any standard relating to caption "appear time."

Final Regulatory Flexibility Analysis

7. As required by section 603 of the Regulatory Flexibility Act, the Commission has prepared the following Final Regulatory Flexibility Analysis (FRFA) of the expected impact on small entities of the proposals suggested in this document. The Secretary shall send a copy of this Report and Order, including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981).

I. Need and Purpose of This Action

This action is intended to improve the general quality of television service by providing for enhanced closed-captioning service and, secondary to that, other broadcast-related information services capable of depiction in an alpha-numeric format. Additionally, the rules permit the transmission of a special ghost-cancelling reference signal that when used with TV receivers having the proper decoding circuitry, could eliminate much, if not all, picture degradation reception of reflected, low amplitude TV signals.

II. Issue Raised in Response to the Initial Regulatory Flexibility Analysis

None.

III. Significant Alternatives Considered

There are none.

Ordering Clause

8. Therefore, *It is ordered* That pursuant to authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, that part 73 of the Commission's Rules and Regulations is amended as set forth below.

9. *It is further ordered* That this proceeding is terminated.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Amendatory Text

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

2. Section 73.682 is amended by revising paragraphs (a)(21)(iv) and (a)(22)(i) to read as follows:

§ 73.682 TV transmission standards.

(a) * * *

(21) * * *

(iv) Regardless of other provisions of this paragraph, after June 30, 1994, Line 19, in each field, may be used only for the transmission of the ghost-canceling reference signal described in OET Bulletin No. 68, which is available from the Commission's Office of Engineering and Technology, Technical Standards Branch, 2025 M Street NW. Washington, DC 20554. Notwithstanding the modulation limits contained in paragraph (a)(23)(i) of this section, the vertical interval reference signal formerly permitted on Line 19 and described in Figure 16 of § 73.699, may be transmitted on any of lines 10 through 16 without specific Commission authorization, subject to the conditions contained in paragraphs (a)(21)(ii) and (a)(22)(ii) of this section.

(22)(i) Line 21, in each field, may be used for the transmission of a program-related data signal which, when decoded, provides a visual depiction of information simultaneously being presented on the aural channel (captions). Such data signal shall conform to the format described in Figure 16 of § 73.699 and may be transmitted during all periods of regular operation. On a space available basis, line 21 field 2 may also be used for text-mode data and extended data service information.

Note: The signals on Fields 1 and 2 shall be distinct data streams, for example, to supply captions in different languages or at different reading levels.

(A) A decoder test signal consisting of data representing a repeated series of

alphanumeric characters may be transmitted at times when no program-related data is being transmitted.

(B) The data signal shall be coded using a non-return-to-zero (NRZ) format and shall employ standard ASCII 7 bit plus parity character codes.

Note: For more information on data formats and specific data packets, see EIA–608, "Line 21 Data Services for NTSC," available from the Electronics Industries Association.

§ 73.699 [Amended]

3. Section 73.699 is amended by revising Figure 17 to read as follows:

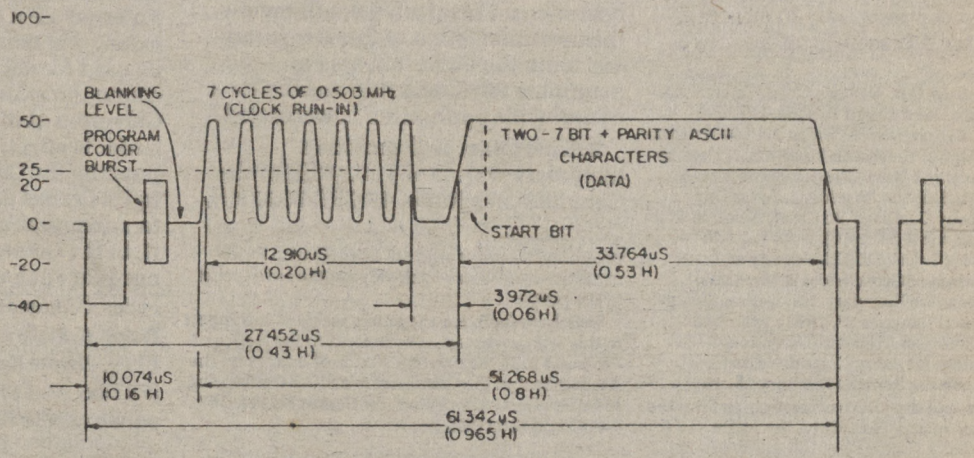

FIGURE 17 LINE 21 FIELD DATA SIGNAL FORMAT

HORIZONTAL DIMENSIONS NOT TO SCALE

1 DATA "1" = 50 IRE UNITS, DATA "0" = 0
2 DATA PULSE RISE TIME = 2 T BAR RISE TIME
3 DATA TIME BASE = 32 f_H (0.50349650 MHz)
4 DATA BIT INTERVAL = H/32 (1.986uS)
5 NEGATIVE GOING ZERO CROSSINGS OF CLOCK ARE COHERENT WITH DATA TRANSITIONS
6 DATA AND CLOCK RUN-IN COHERENT WITH H

FCC § 73.699, Figure 17

[FR Doc. 93–11538 Filed 5–24–93; 8:45 am]
BILLING CODE 6712–01–M

47 CFR Part 80

[DA 93–550]

Temporary Waiver of the Maritime Service Rules (Part 80) to Permit the Use of Marine VHF Channel 77 for Ship-to-Coast Operations

AGENCY: Federal Communications Commission.

ACTION: Final rule; temporary waiver.

SUMMARY: This Order grants a temporary waiver to the ports of Texas city, and Galveston, Texas, to permit the use of Marine VHF Channel 77 by line handlers, port authorities, and shoreside facility operators for communications with ships arriving at berthing facilities in these cities. This waiver is effective on the date adopted, pending the Commission's final action in PR Docket 92–257, which will determine whether the conditions of this waiver should be adopted on a nationwide basis.

EFFECTIVE DATE: May 11, 1993.

FOR FURTHER INFORMATION CONTACT:

George R. Dillon, Aviation and Marine Branch, Private Radio Bureau, (202) 632–7175.

SUPPLEMENTARY INFORMATION:

Order

Adopted: May 11, 1993; Released May 18, 1993

By the Chief, Private Radio Bureau

1. The United States Coast Guard (USCG), Captain of the Port of Galveston, Texas has requested a waiver of part 80 of the Commission's Rules, 47 CFR part 80, to permit the use of marine VHF channel 77 for ship-to-coast operations in the ports of Texas City and Galveston, Texas.[1] Marine VHF channel 77 is allocated solely for intership communications.[2] The Commander of the Eighth Coast Guard District in New Orleans, Louisiana, the Galveston-Texas City Pilots, the Texas City Terminal Railway Company, Texas A&M University at Galveston, College of

[1] See letter from Captain Richard E. Ford, United States Coast Guard, Captain of the Port, Galveston, Texas, to Chief, Aviation and Marine Branch (May 6, 1993).

[2] See Section 80.373(f) of the Commission's Rules, 47 CFR 80.373(f).

Geosciences and Maritime Studies, and the Houston/Galveston Navigation Safety Advisory Committee, all support expanding the authorized use of channel 77 to permit ship-to-coast operation.[3] The Coast Guard asks that linehandlers, port authorities, and shoreside facility operators be permitted to use channel 77 for communications with ships arriving at berthing facilities in these cities.

2. We believe that this request has merit. Marine VHF channel 77 is used for docking operations involving large ships, tugboats, and personnel on the dock, acting cooperatively to ensure a safe operation.[4] Presently, at least two separate marine channels must be used to coordinate the docking operation. One channel for intership communications between the pilot and tugboats, and one channel for ship-to-shore communication with, for example, line handlers. The Coast Guard states that permitting the shared use of Channel 77 will promote safe and timely movement of vessels arriving or departing the ports of Galveston and Texas City. We believe that making one channel available for common use during docking operations nation-wide could improve safety during docking operations. Therefore, we will review the implementation of this temporary waiver in the Galveston area to determine whether a rule making for a nation-wide application is warranted.[5]

3. This Order will provide a temporary waiver of § 80.373(f) of the Commission's Rules, 47 CFR 80.373(f), to permit ship-to-shore operation on marine VHF channel 77, 156.875 MHz. Operation under the terms of this waiver is restricted to the ports of Galveston and Texas City, Texas, and is limited to communications involving the safe and expeditious docking of ships in those ports. All other conditions for the use of channel 77 remain the same.

4. *It is therefore ordered,* pursuant to the authority contained in Sections 0.331 and 1.3 of the Commission's Rules, 47 CFR 0.331 and 1.3, that Section 80.373(f) of the Commission's Rules, 47 CFR 80.373(f) is waived to the extent that marine VHF channel 77 may be used for ship-to-shore communications in the ports of Galveston and Texas City, Texas. This Order is effective on the date adopted, pending the Commission's final action in PR Docket 92–257, and may be terminated at any time without hearing if, in the Commission's discretion, the need for such action arises.

Federal Communications Commission.

Ralph A. Haller,

Chief, Private Radio Bureau.

[FR Doc. 93–12305 Filed 5–24–93; 8:45 am]

BILLING CODE 6712–01–M

[3] See letters from C.B. Newlin, Chief, Operations Division, Eighth Coast Guard District, to Chief, Aviation and Marine Branch, (April 23, 1993); from Captain J. H. Smith, Galveston-Texas City Pilots, to Chief, Aviation and Marine Branch (November 2, 1992); from K.L. DeMaet, President, Texas City Terminal Railway Company, to Chief, Aviation and Marine Branch (April 29, 1993); from Captain Stephen F. Ford, Texas A&M University at Galveston, College of Geosciences & Maritime Studies, to Executive Secretary, Navigation Safety Advisory Council (January 27, 1993); from Ted Thorjussen, Chairman, Houston/Galveston Navigation Safety Advisory Committee, to Chief, Aviation and Marine Branch (February 16, 1993).

[4] The arrival and departure of large ships from the ports of Galveston and Texas City, Texas are controlled by pilots who are familiar with local conditions and board such ships at the entry point to the port.

[5] We have included the letters received in support to this waiver request as comments to the Notice of Proposed Rule Making and Notice of Inquiry on the Amendment of the Commission's Rules Concerning Maritime Communications, PR Docket No. 92–257, 7 FCC Rcd 7863 (1992).

Proposed Rules

Federal Register
Vol. 58, No. 99
Tuesday, May 25, 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.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 52

[Docket No. FV–91–329]

United States Standards for Grades of Frozen Cauliflower; Reopening and Extension of Comment Period on Proposed Rule

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Reopening and extension of the comment period.

SUMMARY: Notice is hereby given that the time period for filing comments is reopened and extended on the proposed rule published in the January 11, 1993, issue of the **Federal Register** for U.S. Standards for Grades of Frozen Cauliflower.

DATES: Comments must be postmarked or courier dated on or before December 31, 1993.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the Office of the Branch Chief, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, room 0709, South Building, Washington, DC 20090–6456. Such comments should reference the docket number and the date and page numbers of the **Federal Register** and will be made available for public inspection in the above office during regular business hours.

FOR FURTHER INFORMATION CONTACT: Randle A. Macon, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, room 0709, South Building, Washington, DC 20090–6456, Telephone: (202) 720–6247.

SUPPLEMENTARY INFORMATION: On January 11, 1993, the Agricultural Marketing Service published a proposal to revise the current voluntary U.S. Standards for Grades of Frozen Cauliflower issued under the Agriculture Marketing Act of 1946 (7 U.S.C. 1621 et. seq.) in the **Federal Register** (58 FR 3816). Comments were to be postmarked or courier dated on or before March 12, 1993. The proposal includes bringing the standards in line with current marketing practices and innovations in processing techniques; providing for the "individual attributes" procedure for product grading with sample sizes, acceptable quality levels (AQL's), tolerances and acceptance numbers (number of allowable defects) being published in the standards; replacing dual grade nomenclature with single letter grade designations, such as "U.S. Grade A" or "U.S. Fancy," with "U.S. Grade A;" and providing a uniform format consistent with other recently revised U.S. grade standards by adopting definitions for terms and replacing textual descriptions with easy-to-read tables. The proposed rule also includes conforming and editorial changes. Prior to the end of the 60 day comment period, the American Frozen Food Institute (AFFI) asked that the comment period be extended through the upcoming growing season to allow AFFI members the opportunity to "test" the proposal and to offer comments based on actual experience. Reopening and extending the comment period will provide interested persons more time to review the proposed rule and submit written views and information pertinent to the proposed changes.

Accordingly, the comment period is reopened and extended to December 31, 1993.

Dated: May 19, 1993.

L.P. Massaro,

Acting Administrator.

[FR Doc. 93–12282 Filed 5–24–93; 8:45 am]

BILLING CODE 3410–02–M

Food and Nutrition Service

7 CFR Parts 250 and 252

Donation of Food for Use in the United States, Its Territories and Possessions and Areas Under its Jurisdiction; National Commodity Processing Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the Food Distribution Program regulations to strengthen provisions concerning the processing of donated food and to increase uniformity between provisions governing State processing activities (7 CFR part 250) and those governing the National Commodity Processing (NCP) Program (7 CFR part 252). The changes incorporated in this proposed regulation reflect the results of a national meeting held to discuss potential improvements to the regulations. It also incorporates recommendations presented at the Paperwork Reduction Task Force meeting designed to reduce the paperwork burden associated with the administration of the processing program.

DATES: To be assured of consideration, comments must be received or postmarked before July 26, 1993.

ADDRESSES: Comments should be sent to: Beverly King, Chief, Commodity Processing Branch, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, Alexandria, Virginia 22302. Comments in response to these rules may be inspected at 3101 Park Center Drive, room 506, Alexandria, Virginia, during normal business hours (8:30 a.m. to 5 p.m.), Mondays through Fridays.

FOR FURTHER INFORMATION CONTACT: Beverly King, Chief, Commodity Processing Branch at (703) 305–2888.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under Executive Order 12291 and has not been classified "major" because it does not meet any of the three criteria identified under the Executive Order. Compliance with the provisions in this proposed rule will not have an annual effect on the economy of more than $100 million or more, nor will it cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions. This action will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S. based enterprises to compete with foreign-based enterprises in domestic or export markets.

This action has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). Andrew P. Hornsby, Jr., Acting Administrator of the Food and Nutrition Service (FNS), has certified that this action will not have a significant economic impact on a substantial number of small entities.

Information Collection

This proposed rule contains information collections which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35). The title, description, and respondent description of the information collections are shown below with an estimate of the annual reporting and recordkeeping burdens. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed,

Title: Technical Amendments to the State Processing and National Commodity Processing Programs.

Description: Recommendations made by the Paperwork Reduction Task Force in August 1990 and subsequently incorporated into USDA's 1990 Report to Congress were included in this proposed regulation. As a result, the reporting and recordkeeping burden hours associated with four program areas will be reduced under this proposal. The reporting and recordkeeping requirements identified below have been submitted to OMB for approval and are not effective until such approval is obtained. The new information collection requirements will not become effective until OMB has assigned a control number.

The OMB control numbers assigned to the existing recordkeeping and reporting requirements for part 250 were approved by OMB under control number 0584–0007 and under control number 0584–0325 for part 252.

Description of Respondents: State distributing agencies, school food authorities, and commercial food processors.

STATE PROCESSING PROGRAM DESCRIPTION OF RESPONDENT'S ESTIMATED ANNUAL REPORTING AND RECORDKEEPING BURDENS

Section 7 CFR part	Annual No. respondents	Annual frequency response	Average burden per hours	Annual burden
7 CFR 250.30(c)				
Previous	500	1	2	1,000
Proposed	166	1	2	332
7 CFR 250.30(l)				
Previous	57	12	2	1,368
Proposed	19	12	2	456
7 CFR 250.30(m)				
Previous	500	12	1.33	8,000
Proposed	500	9	1	4,500
7 CFR 250.30(n)(4)				
Previous	500	1	1	500
Proposed	0	0	0	0

Total Previous Burden Hours: 10,868; Total Proposed Burden Hours: 5,288; Total Difference: −5,580.

These programs are listed in the Catalog of Federal Domestic Assistance under 10.550 and are subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials (7 CFR part 3015, subpart V and final rule-related notices published at 48 FR 29114, June 24, 1983 and 49 FR 22676, May 31, 1984).

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This rule is not intended to have retroactive effect unless so specified in the "Effective Date" section of this preamble. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures must be exhausted. This includes any administrative procedures provided by State or local governments. For disputes involving procurements by State agencies and sponsors, this includes any administrative appeal procedures to the extent required by 7 CFR parts 3015 or 3016.

The Department of Agriculture is committed to carrying out its statutory and regulatory mandates in a manner that best serves the public interest. Therefore, where legal discretion permits, the Department actively seeks to promulgate regulations that promote economic growth, create jobs, are minimally burdensome and are easy for the public to understand, use or comply with. In short, the Department is committed to issuing regulations that maximize net benefits to society and minimize costs imposed by those regulations. This principle was articulated in the President's January 28, 1992 memorandum to agency heads, and in Executive Orders 12291 and 12498. The Department applies this principle to the full extent possible, consistent with law.

The Department has developed and reviewed this regulatory proposal in accordance with these principles. Nonetheless, the Department believes that public input from all interested persons can be invaluable to ensuring that the final regulatory product is minimally burdensome and maximally efficient. Therefore, the Department specifically seeks comments and suggestions from the public regarding any less burdensome or more efficient alternative that would accomplish the purposes described in the proposal. Comments suggesting less burdensome or more efficient alternatives should be addressed to the agency as provided in this notice.

Background

Section 250.30 of the current Food Distribution Program regulations sets forth the terms and conditions under which distributing agencies, subdistributing agencies, and recipient agencies may enter into contracts with commercial firms for processing

donated foods and prescribes the minimum requirements to be included in such contracts. Part 252 sets forth the terms and conditions under which FNS and commercial firms may enter into contracts for the processing and distribution of designated donated foods to eligible recipient agencies.

Discussion of Proposed Rule

On October 27, 1989, FNS published a notice in the **Federal Register** (54 FR 43840) announcing a meeting to discuss proposed changes to the State processing program regulations. The purpose of the meeting was to give the U.S. Department of Agriculture (USDA) the opportunity to discuss the State processing program regulations with State, local and industry representatives, as well as the general public, prior to formulating proposed regulations to amend the current State processing regulations found at 7 CFR 250.30. The meeting was held on December 13, 1989. Topics discussed during the meeting included: (1) Time frames for processors to pay refunds to recipient agencies; (2) Current regulations that require distributors to state the amount of the discount or refund due on sales invoices to recipient agencies; (3) Current regulations that define a food service management company; (4) Fee-for-service processing policy; (5) State/Federal processing agreement renewal; (6) Use of alternative value pass-through systems; and (7) Policy regarding substitution of commercially purchased food for donated foods. Thirty-nine people attended the meeting. Attendees present represented industry, certified public accountants, distributing agencies, national associations which work closely with the Food Distribution Programs, and representatives from the Department's Agricultural Marketing Service and the Food Safety Inspection Service. In addition, for those who were unable to attend the meeting, as well as those who attended the meeting, FNS agreed to accept written comments provided they were sent within 30 days after the meeting. Twenty-three written comments were received.

Subsequent to the December 1989 meeting, the Department published a notice in the **Federal Register** (55 FR 11033) on April 9, 1990, soliciting ideas and suggestions to decrease paperwork in the Child Nutrition Programs. This notice was published in accordance with section 19 of the National School Lunch Act (42 U.S.C. 1769a), as added by section 108 of the Child Nutrition and WIC Reauthorization Act of 1989 (Pub. L. 101–147), which directed the Secretary to reduce the paperwork of State and local education agencies, schools, and other agencies participating the nutrition programs assisted under the National School Lunch Act and the Child Nutrition Act of 1966. Comments and suggestions for reducing the paperwork burden associated with these various programs were received and reviewed in preparation for the Paperwork Reduction Task Force meeting held in August 1990. Topics discussed at the meeting relating to the processing of donated food included: (1) Simplification of procedures for tracking commodities used in processing activities; (2) Review of the requirements for quarterly processing activity reports and the elimination of the requirement to submit annual reconciliation reports; (3) Elimination of the requirement that processors submit a list of all contracting agencies with each monthly performance report; (4) Expansion of statewide processing agreements and agreement renewal; (5) Review of the requirement for multiple copies of refund applications; (6) Reduction in the number of processor performance reports; (7) Review of the current 6-month inventory limitation; and (8) Standardization of end product data schedules for all processing agreements. The Task Force, composed of representatives of State and local administrators of the programs authorized under the National School Lunch Act and Child Nutrition Act of 1966, formulated suggested recommendations for each of the above topics. These recommendations were incorporated in the Department's 1990 Report to Congress.

This proposed rule addresses each topic discussed during the December 1989 meeting and the deliberations of the Paperwork Reduction Task Force as they relate to processing of donated foods. Because the State processing and NCP Programs are similar in certain areas of program operations, some of the concerns raised relative to § 250.30 also apply to part 252. Therefore, in order to ensure consistency between the two programs, the Department is proposing to make the appropriate revisions to part 252.

Food Service Management Companies

Under § 250.3 of the current regulations, a "Food service management company" is defined as a commercial enterprise or a nonprofit organization which is or may be contracted with by a recipient agency to manage any aspect of its food service. Under this same section, a "Processor" is defined as a commercial facility, other than a food service management company, which processes donated foods. Under the current regulations in § 250.30(a), food service management companies are exempt from the requirements of the processing regulations.

It has come to the Department's attention that some food service management companies have opened centralized kitchen facilities which accommodate the production of end products on a mass scale. These companies are capable of producing commercial quality products that can be used in many of the food service operations they manage. The facilities used to prepare commodities and other food items are capable of producing a wide range of products and are similar to plants used by commercial food processors. Additionally, the Department has become aware that several processors have entered into agreements with school food authorities to handle certain management aspects of their lunch programs (e.g. meal counts, food ordering, State reporting, etc.) in order to be exempt from the requirements of the processing regulations.

The original intent of the exclusion for food service management companies from the processing regulations was due to the belief that the food service management companies would produce meals on-site and serve them just as a school food authority would do. In fact, in proposing the exclusion of food service management companies from the definition of processor, the Department specifically stated in the preamble that the processing provisions would be applicable to vendors of prepared meals containing donated foods. 45 FR 42303 (June 24, 1980).

At the December 1989 meeting, removal of the blanket exception for food service management companies from the processing provisions of part 250 was discussed. Several similar issues discussed at the meeting that would assist in distinguishing between food service management companies and processors and bring requirements up-to-date included: (1) On-site preparation of meals versus preparation at an off-site facility; (2) how to handle situations in which there are central production facilities (especially if a food service management company prepares meals for several school food authorities from the same location but under separate contracts); (3) what steps should be taken to strengthen the accountability for donated food turned over to food service management companies; and (4) how to handle situations in which one school food authority prepares meals for another

school food authority or takes on catering functions for other types of recipient agencies (Nutrition Program for the Elderly, child care centers, charitable institutions, etc.).

Ten written comments were received regarding food service management companies. Several commenters stated that food service management companies with off-site preparation facilities should be subject to the processing regulations. One commenter stated that the definition of food service management company should be limited to those enterprises that prepare meals on-site for the school food authority which they are serving. If commodities are taken off-site or included in another school food authority's products, the commenter said the food service management company should fall under the processing regulations. Another commenter stated that a food service management company which is cooking in a facility and delivering meals to various school food authorities should be required to have an acceptance service grader on hand when handling meat or poultry. One commenter stated that criteria should be established to provide appropriate, yet cost effective, accountability for donated foods used to prepare meals by food service management companies.

The Department believes that the problems discussed above can be alleviated by applying the provisions of part 250 to commercial food service management companies if such entities prepare products or meals containing donated food for more than one recipient agency under more than one contract in the same facility or prepare products or meals for any one recipient agency *off-site*. In this context, on-site means that meals or products prepared by a recipient agency are served within that recipient agency, even though preparation and service may occur at different locations. For example, meals prepared and served at different locations within a school food authority are considered prepared on-site, but meals prepared at a facility in one school food authority and served at a location in another school food authority are considered prepared off-site.

The situation in which one school food authority prepares meals for another school food authority presents a special concern since nonprofit recipient agencies which provide meals to other nonprofit recipient agencies are food service management companies by definition in § 250.3 of the current State processing regulations, and are therefore, exempt from the requirements of the processing regulations. However, the Department believes that where a nonprofit recipient agency prepares products or meals containing donated foods for more than one recipient agency under more than one contract in the same facility or prepares products or meals for any one recipient agency *off-site*, that recipient agency is operating as a commercial food service management company and must comply with the provisions of part 250.

The § 250.3 definition of "Processor" and § 250.30(a) of this proposed rule would be revised to remove the blanket exception from the processing regulations for commercial food service management companies. Additionally, under the proposed rule, the processor definition in § 250.3 would be revised to exempt any commercial enterprises which handle, prepare and/or serve products or meals containing donated foods on-site solely for the individual recipient agency under contract.

Fee-For-Service

Section 250.30(c)(4)(iii) of the current regulations requires processing contracts to include the contract value of donated food and, where processing is to be performed only on a fee-for-service basis, the processing fee to the contracting agency for a specified number, weight or measure of the end products to be delivered.

The processing of meat and poultry, which are nonsubstitutable commodities, have traditionally been done under fee-for-service arrangements. Under a typical fee-for-service arrangement, a price by pound or by case representing a processor's cost of ingredients (other than the donated food), labor, packaging, overhead, and other costs incurred in the conversion of the donated food into the end product is established. A discount or refund per case is not established; consequently, there is not a credit for the value of the donated food in the end product. The net price is based on a charge per pound or per case for processed finished product.

Under § 250.30(c)(4)(viii)(D)(2) of the current State processing regulations, processors are responsible for returning the market value of any by-products which results from processing meat and poultry. Some processors in the past claimed to have lowered the fee-for-service price by the value of the by-products remaining after further processing. It was difficult to prove that the value of the by-products was actually passed on to the contracting agencies since no specific value was assigned to the by-products in the contract. To eliminate this problem, the Department proposes to revise § 250.30(c)(4)(viii)(D) to clarify that the processing contract must require processors who wish to give credit for by-products via a reduction in the fee-for-service price to specifically identify in the contract the specific dollar value amount reflected in the lowered price.

FNS has concerns over the need for greater accountability in the sales of end products processed under fee-for-service arrangements, especially when the end products are sold to recipient agencies through distributors. The focus of the concern is that accountability for donated food is difficult to track once the product is sold to a recipient agency through distributors at the fee-for-service price. Since the majority of end products produced under fee-for-service agreements contain meat or poultry, care must be taken to ensure that end products are sold only to recipient agencies eligible to receive these commodities since the value of the meat or poultry must be credited against the appropriate recipient agency's statutorily required level of commodity assistance.

At the December 1989 meeting, it was proposed that FNS could incorporate special procedures for billing fee-for-service end products into the regulations. It was discussed that end products produced under fee-for-service contracts could be delivered and invoiced to recipient agencies in any of the following ways: (1) The processor can deliver end products directly to the recipient agency and bill for the agreed upon fee-for-service plus delivery costs or (2) deliveries of fee-for-service end products by distributors can be billed in one of two ways: (a) A dual billing system through which the recipient agency is billed by the processor for the fee-for-service and the distributor bills for the storage and delivery of end products or (b) a system through which the processor bills separately for the fee-for-service and the distributor's storage and delivery charges.

At the December 1989 meeting, it was further discussed that where end products are sold to recipient agencies through distributors, fee-for-service arrangements be limited to end products containing only meat or poultry. Also, the question of how to handle sales of end products produced from both substitutable donated foods and meat or poultry in the fee-for-service context was raised. FNS received five written comments on these issues. Three commenters recommended that the procedures discussed at the meeting for billing fee-for-service end products be incorporated into the regulations. Two commenters also believed that fee-for-

service processing should be limited to meat and poultry processing.

Under this proposed rule, FNS proposes to define fee-for-service and delete the obsolete definition of processing fee in § 250.3 of this part, reorganize §§ 250.30 (d) and (e) to clarify refund, discount, hybrid, and alternative value pass-through systems, and incorporate the aforementioned procedures for billing fee-for-service end products in §§ 250.30 (d)(2) and (e)(1)(iv) of this part. Further, FNS is proposing in § 250.30(e)(3) to prohibit end products containing meat or poultry together with any other donated food from being delivered and sold to recipient agencies through distributors under a fee-for-service contract. Thus, where end products contain meat or poultry together with other donated food, such end products must be delivered and sold to recipient agencies through distributors under a refund, hybrid, or alternative value pass-through system approved by FNS. However, end products containing meat or poultry and additional ingredients which are not donated foods, may be sold to recipient agencies through distributors under fee-for-service contracts. Also, end products containing meat or poultry together with other donated food sold directly to recipient agencies by the processor may be sold under fee-for-service contracts.

While FNS believes the above proposed rule limiting fee-for-service contracts to end products delivered and sold to recipient agencies through a distributor containing no donated food except meat or poultry facilitates improved accountability, FNS has concerns that the proposed rule may be problematic for specific types of end products which contain primarily meat or poultry together with only a small amount of a donated food such as flour, e.g. batter-breaded chicken nuggets. Under the current regulations, this type of product may be produced under a fee-for-service contract. Under this proposed rule, where delivered and sold to a recipient agency through a distributor, this product would have to be processed under a value pass-through system contract which would specifically identify a contract value for the chicken and for the flour used to manufacture the product.

FNS believes products such as breaded chicken nuggets or patties may be distinguishable from a product such as pizza which also may contain meat and other donated food such as flour and cheese. Unlike the chicken nugget example, where the amount of poultry is significant, the amount of meat in a pizza is small and a contract value of donated food is typically assigned to it. FNS desires comments regarding the impact the proposed rule will have on the sale of any products manufactured using a combination of meat and poultry and other donated food, and possible alternatives to this proposed rule.

Contract Renewal

Under § 250.30(c)(1) of the State processing regulations and § 252.4(b) of the NCP regulations, all processing contracts must terminate on June 30 of each year. At the December meeting, it was discussed that processing contracts could be approved for one year with the option of two 1-year extensions, provided all necessary information (including but not limited to pricing and yield information value, bonding information, signature page, etc.) is updated each year. Pricing information as a requirement for the processing contract is discussed further in the next section of this Preamble.

Also at the meeting, some industry representatives objected to this idea stating that if they do not initially get a contract with a contracting agency, they would be unable to participate in the program for a 3-year period. These representatives would like to see contracts limited to one year each. We received 11 comments regarding this idea. Ten commenters were in favor of allowing renewal of processing contracts. One commenter stated that if a State required competitive bids for processing contracts, they should be required to negotiate contracts every year.

Under the proposed rule, § 250.30 (c)(1) of the State processing regulations and § 252.4(b) of the NCP regulations, processing contracts will continue to be required to end June 30 of each year; however, under this proposed rule, contracting agencies (or FNS in the case of NCP) would be given the option of extending contracts for two 1-year periods. The Department believes that where the original contract was competitively bid, such extensions must meet the requirements set forth in Attachment O to OMB Circular A–102, as prescribed in § 250.30(c)(1).

Further, §§ 250.30(c)(1) and 252.4(b) of this proposed rule would require that any changed information must be updated before any contract extension is granted, including pricing and yield information, bonding information, and signature page. Also, the proposed rule at § 250.30(c)(1) would permit contracts to be extended only if the processors performed satisfactorily during the previous year, submitted the required annual reconciliation reports and had its certified public accountant audit reports closed, if applicable. The Department believes that two 1-year extensions of the processing contract would reduce paperwork, facilitate contact approval (especially if those States requiring oversight by other States offices under the State processing program), and expedite the arrangement of commodity shipments directly to processors. Under the current system, it may take 4 to 6 weeks to approve an original contract. By extending contracts, only that information which changed from the previous year and the required signatures need to be updated. Additionally, the Department believes that in the State processing program, distributing agency review and approval as required by § 250.30(l) of the current regulations, would also be applicable to the processing contract extensions and thus, this proposed rule would amend § 250.30(l) accordingly.

Requirements for Processing Contracts

Section 250.30(c)(4) of the current State processing regulations describes the minimum information each processing contract must include. Included as part of this information is the requirement in § 250.30(c)(4)(ii) that processors include the free on board (FOB) plant price schedule for quantity purchases of processed products. Section 252.4(c)(1) of the NCP regulations also requires the FOB price as part of the end product data schedule.

At the Paperwork Reduction Task Force meeting, it was suggested that this requirement be removed from the current regulations since there is much confusion regarding what this price represents. The original intent was to identify the cost of production of products prior to delivery either to a distributor or directly to recipient agencies. However, based on our experience in reviewing end product data schedules of State processing and NCP contracts, the FOB price listed often appears to represent the highest price a recipient agency would pay for the product. Under fee-for-service processing contracts, the FOB price represents the fee-for-service cost per pound multiplied by the net weight of a case of end product. In the past, many processors did not include an FOB price on the end product data schedule. Many processors believe that recipient agencies should try to obtain the lowest possible gross price for a product and then determine the discount or refund amount due and subtract this amount from the gross price, rather than separately negotiating an FOB price. By not including an FOB price, processors and their brokers could competitively

bid their products and recipient agencies need only ensure that the full contract value of the donated food, as established on the end product data schedule, is reflected as either a discount or a refund off the commercial wholesale price of the product.

Since there is a great deal of confusion regarding what the FOB price represents, FNS is proposing to eliminate the requirement that this price be included as part of the State processing and NCP contract. Instead, § 250.30(c)(4)(ii) of the State processing regulations would be amended under this proposed rule to provide that any pricing information provided by the processor in addition to that required in paragraph (c)(4)(iii) of this section, e.g., commercial wholesale price, delivered price per case, etc., may be requested by the contracting agency. Where such additional information is requested, § 250.30(c)(4)(ii) of the proposed rule would require the processing contract to provide a thorough explanation as to what any additional pricing information represents.

Section 252.4(c)(1) of the NCP regulations would be similarly amended to require the end product data schedule to provide pricing information requested by FNS and a thorough explanation of what such pricing information represents.

Also, FNS is proposing in § 250.30(c)(4)(ii) of the State processing regulations that information pertaining to yields and pricing be on separate pages of the contract. This would make it easier for processors and/or distributing agencies to adjust yield and contract value of donated food information during the contract year or for contract renewal. For example, if FNS requires the processors to adjust the contract value of donated food during the contract year, processors would only need to update their pricing information since yields did not change. As the program currently operates, any adjustments to the yield or pricing information requires processor submission, contracting agency review, and distributing agency approval of the entire end product data schedule. By submitting the same data in two parts, necessary changes can be implemented expeditiously in the contract and provided simultaneously to the recipient agencies. FNS plans to work with the American Commodity Distribution Association to develop a two-part processing contract specifically designed to implement this proposal.

Liquidated Damages

Section 250.30(c)(4)(iv)(B) of the current regulations provides for immediate termination of the processing contract when there has been noncompliance with its terms and conditions by the contracting agency or the processor. It has been FNS' experience that there have been circumstances where termination of processing contracts would seriously affect the ability of recipient agencies to purchase processed end products. Rather than terminating contracts for noncompliance with the contract provisions, FNS believes there can be some middle ground established where incidents of noncompliance may be better handled by means of assessing damages against the non-performing party of the contract under the State processing program.

A liquidated damages article is currently part of the NCP agreement and was intended to address situations similar to the one described above. The provision in the NCP agreement provides that any processor who fails to carry out the terms and conditions specified in the agreement and any addenda, attachments, or exhibits thereto which result in serious and substantial damage to FNS and NCP, distributing agencies and/or recipient agencies shall be liable for such damages. Under the NCP agreement, when the monetary amount of damage cannot be determined, the processor shall agree to pay FNS, upon request, $5,000 for each instance of violation of any term of the contract. FNS has exercised this authority in the NCP Program and has found it to be an effective approach to processor noncompliance while ensuring a regular supply of end products to recipient agencies.

In an effort to make the State processing program more consistent with NCP, FNS is considering the development of a liquidated damages section for inclusion in the State processing regulations and agreement. However, FNS recognizes that the liquidated damages contained in the NCP agreement may not be appropriate for the State processing program because of the differences between the two programs. Under NCP, FNS acts as the sole distributing agency, only FNS enters into agreements with processors and only FNS can pursue liquidated damage claims against a processor. However, under the State processing program, many distributing agencies can have separate contracts with any one processor. FNS is concerned that with multiple distributing agencies involved, any liquidated damages provision in the regulations must have the necessary specificity to avoid inconsistencies in the way liquidated damages are pursued. Otherwise, one distributing agency may invoke the liquidated damage clause for a contract violation, while another distributing agency may not believe the violation warrants any more than a verbal reprimand.

FNS believes that some intermediate alternative between no consequences and termination for minor contract provision noncompliance is needed in the State processing program. FNS is soliciting comments from interested parties as to the way they believe instances of program violations by processors should be handled, short of contract termination. Commenters are requested to identify areas of noncompliance that have created the greatest problems in the past. FNS is seeking comments regarding the type and amount of reasonable damages for noncompliance with specific provisions of the processing agreement to be applied against a processor, based on the severity and nature of the program violations identified, in order to ensure consistent application of the requirement. Also, FNS is seeking comments regarding incorporating the liquidated damages provision of the NCP contract into the NCP regulations.

Alternate Value Pass-Through Systems

During the 1970's, it was commonplace for processors to produce end products containing commodities and sell them at a discounted price to distributors. Distributors would, in turn, sell the products to recipient agencies at the discounted price and report the sales to the processor. During the National Audit of the Processing Program conducted by USDA's Office of the Inspector General, released in 1978, it was evident that distributors were not reporting sales of discounted end products to recipient agencies. The audit also disclosed that distributors were not passing on the full price reduction for the commodities to the recipient agencies. Hundreds of thousands of pounds of donated food were virtually unaccounted for. In its attempt to bring order to the processing program, FNS restricted the procedures for the sale of end products through distributors. The restrictions on sales of end products through distributors were put in place by the final rule published August 14, 1981 (46 FR 41472). This rule amended § 250.15(f) of the State processing regulations to require that when a processor transfers end products to one or more distributors for sale and delivery to recipient agencies, such sales shall be under a refund system. Further, this rule provided that a distributing agency may permit the use of any other system that can

demonstrate and ensure proper accountability with written concurrence from the FNS regional office, for end products sold by distributors.

Most processors adopted the refund system claiming it to be the easiest and most easily monitored method for selling end products to recipient agencies through distributors. While the processors enjoy greater accountability for the sale of end products under the refund system, recipient agencies have complained bitterly that they have to pay full price for products and wait for a refund from the processor. In some instances, recipient agencies even fail to file for a refund from the processors.

It is apparent that recipient agencies prefer to pay the discounted price for end products rather than applying for refunds from a full price sale. On the other hand, many processor representatives have made it clear that they prefer the refund system because accountability controls are easier to maintain.

The Department published an interim rule September 12, 1985 (50 FR 37163) for the NCP Program and a final rule July 1, 1986 (51 FR 23719) for the State processing program, permitting the use of the "hybrid" system for sales of processed end products through distributors. Under this system, distributors purchase products from processors at the normal wholesale price and agree to sell these end products to recipient agencies at a discounted price. Upon furnishing the processor proof of the sales to an eligible recipient agency, the processor issues a refund payment to the distributor for the value of the discount already provided to the recipient agency. FNS developed these rules as an attempt to permit a system whereby recipient agencies could purchase end products at the discounted price. Acceptance of this system has been minimal. Recipient agencies and processors requested that FNS consider the option of approving alternative value pass-through systems, provided accountability for the value of the donated food could be maintained. In a final rule published June 6, 1988, (53 FR 20597) FNS amended § 250.30(d)(1)(iii) of the State processing regulations and by interim rule published September 2, 1988, (53 FR 34013) FNS amended § 252.4(c)(4) of the NCP regulations to permit the use of alternative value pass-through systems, subject to FNS approval. Since that time, two distributing agencies have requested and been granted approval for alternative value pass-through systems which permit recipient agencies to purchase end products through a distributor at the discounted price. Both systems, however, are cumbersome and difficult to administer.

We received seven written comments regarding alternative value pass-through systems. One commenter stated that FNS should eliminate the option of alternative value pass-through systems. This same commenter said that at a minimum, a system should be piloted for one year before it receives full authorization. Two other commenters stated that any value pass-through system approved must be accountable and not too expensive or burdensome to operate. Four commenters believed that the use of alternative value pass-through systems should be permitted. These same commenters stated that the recipient agencies prefer to pay the net price; however, they consider the refund system to be the most accountable and least burdensome system currently available. These commenters stated that distributing agencies would consider requesting approval for alternative value pass-through systems if they were developed and proven effective.

Under this proposed rule, alternative value pass-through systems continue to be permitted. However, this proposed rule would amend § 250.30(d)(1)(iii) of the State processing regulations and § 252.4(c)(4)(iii) of the NCP program regulations to permit FNS to take the paperwork and resource burden associated with the system into consideration when approving alternatives. The proposed rule would also reserve to FNS the right to deny approval of systems which are laborintensive and provide no greater accountability than systems consistent and specifically described for use by the current regulations.

Invoice Information

Sections 250.30(d)(2) and (e)(2) of the State processing regulations and § 252.4(c)(4) of the NCP regulations require that processors ensure that all invoices, both processor generated and distributor generated, clearly indicate the discount included or the refund due on the end product, and that the invoices clearly identify that the discount included or refund payment due is for the contract value of the donated food, regardless of the value pass-through system used.

At the December 1989 meeting, it was suggested that the Department eliminate the requirement that the distributor invoice indicate the amount of discount included or refund due the recipient agencies. Eight commenters were in favor of eliminating the requirement and two commenters were in favor of retaining it. Those who were in favor of eliminating the requirement did so because they believe it is difficult for processors to enforce the current requirement. Several commenters pointed out that the majority of invoices used by distributors only indicates the price that is charged to the recipient agency. FNS understands there is no mechanism in most computerized invoicing systems currently in use to include a second price as is required under the current regulations. In lieu of indicating the discount or refund amount on invoices, these same commenters recommended that processors should provide pricing information summaries to the contracting agencies and the contracting agencies should disseminate this information to the recipient agencies.

Another question was brought up at the December meeting regarding providing updated pricing information summaries to recipient agencies throughout the contract year. Updated pricing information summaries are necessary when end product data schedules for new products are added by processors, when processors alter end product formulations which can change the value of the donated food per unit of end product, or when the contract value of donated food changes during the contract period.

This proposed rule would eliminate the requirements in § 250.30(d)(2) and (e)(2) of the State processing regulations and § 252.4(c)(4) of the NCP regulations that the processor/distributor ensure that invoices clearly indicate the discount included or refund due recipient agencies on the end product. Sections 250.30(d)(3) and (e)(2) of the proposed rule would require processors to provide pricing information summaries to contracting agencies. Contracting agencies would be required to provide the pricing information summaries to recipient agencies as soon as possible after contact approval by the distributing agency. If any pricing information changes during the contract year, §§ 250.30(d)(3) and (e)(2) of the proposed rule would require that the processor shall be responsible for providing updated pricing information summaries to the contracting agencies 30 days prior to the effective date, who, in turn, shall provide the updated summaries to the recipient agencies.

To establish the processor's affirmative duty to provide these pricing summaries and updated pricing summaries, § 250.30(c)(4)(xvii) of the State processing regulations would be added to require that the processor provide pricing information summaries and updated pricing information

summaries in §§ 250.30(d)(3) and (e)(2) of this part.

Section 252.4(c)(4) of the proposed rule would require processors to provide pricing information summaries directly to the recipient agencies as soon as possible after FNS contract approval. Also, § 252.4(c)(4) of the proposed rule would require that if any pricing information changes during the contract year, the processor shall be responsible for providing updated pricing information summaries to FNS and the recipient agencies 30 days prior to the effective date of such change.

Substitution of Donated Food

Section 250.30(f) of the current State processing regulations contains provisions for the substitution of donated foods with commercial foods under State processing contracts. The regulations specify which donated foods are substitutable and the circumstances under which substitution may take place. Only butter, cheese, corn grits, cornmeal, flour, macaroni, nonfat dry milk, peanut butter, peanut granules, roasted peanuts, rice, rolled oats, rolled wheat, shortening, vegetable oil, spaghetti and such other foods as FNS specifically approves may be substituted. All requests to substitute donated foods, including those items specifically listed in the regulations, must be approved in advance by the distributing agency *except* when the substitution is necessary to replace donated food with commercial food to meet the 100 percent yield requirement, when donated and commercial foods have been commingled in joint storage tanks or bins, or when the processing contract permits the use of concentrated skim milk which has been purchased or manufactured by the processor for donated nonfat dry milk. Additionally, distributing agencies may approve a processor's request for substitution only when the distributing agency's inability to maintain the necessary inventory of donated food at the processor would disrupt the production of end products. Section 252.4(c)(7) of the current NCP regulations permits substitution of commercial food for donated food only with the approval of FNS and provides that substitution is only appropriate when donated food and commercial food has been commingled or when delays in donated food shipment adversely affect production.

At the December 1989 meeting, it was discussed that the regulations should permit regular substitution of commercial food for those donated foods specifically listed as substitutable provided the processor maintains documentation that all components of the commercial foods substituted for those donated are of U.S. origin and identical or superior in every particular way to the donated food specification. Under this suggestion, permission to substitute commercial food for substitutable donated foods would not require advanced written approval by the distributing agency. Processors would be required to prove that sufficient commercial purchases were made to replace donated food to meet the 100 percent yield requirement.

The Department believes it is more important to ensure that the State is credited for the full value of the donated food received than to ensure that a given State's commodity order is used to produce end products for that given State. It is also more important to ensure that a processor purchases adequate commercial ingredients to meet its commercial production needs and to meet the 100 percent yield requirement than to ensure that a given State's donated food is actually in that State's end products.

In State processing contracts providing for substitution, this proposed rule would permit processors to substitute without prior approval all those donated foods currently listed in the regulations at § 250.30(f)(1)(i). Section 250.30(f)(4) of the proposed rule would permit processors to continue to request approval from FNS to substitute other commercial foods (except meat and poultry), although without the requirement that requests may be made only when the distributing agency's inability to maintain the necessary inventory of donated food at the processor would disrupt the production of end products. Instead, in all cases in which a State processing contract permits substitution, § 250.30(f)(2) of the proposed rule would require the processor to provide documentation sufficient to substantiate that the processor continues to acquire sufficient substitutable commercial foods necessary to meet the 100 percent yield requirement. Section 250.30(f)(1)(iii) of the proposed rule would permit distributing agencies to withhold deliveries of donated food from processors that distributing agencies determine have reduced their level of commercial production because of participation in the State processing program. Also, under § 250.30(f)(4) of this proposed rule, the authorization to substitute commercial foods for donated foods not specifically listed shall apply for the duration of all contracts currently entered into by the processor pursuant to this section.

Section 252.3(c) and 252.4(c)(7) of the NCP regulations would be similarly amended to permit substitution of the same donated foods without prior approval and the process by which processors could request substitution for foods not specifically listed. Additionally, § 252.4(c)(7) would be reorganized under this proposed rule.

Time Frames for Processors to Pay Refunds

Section 250.30(k) of the State processing regulations requires that recipient agencies or distributors where distributors have sold end products to recipient agencies at a discount, submit refund applications to processors within 30 days from the close of the month in which the sales were made. The processor is required to make payment within 10 days after the receipt of any refund application.

On February 2, 1988, the Department issued a proposed rule (53 FR 2846) which would have required processors to pay refunds within 30 days of receipt of the application from the recipient agency or distributor. The majority of the commenters were opposed to giving processors 30 days to pay refunds. The commenters wanted processors to continue to be required to make refund payments within 10 days of receipt of the application. Many of the commenters stated it was unrealistic to have to wait 30 days to receive money due the recipient agency. They further noted that such a requirement would have a negative effect on a school system's cash flow. Additionally, FNS did not receive any comments in support of the change. Because of the opposition of these comments, the Department retained the requirement in the final rule published February 22, 1989 (54 FR 7521), that processors must make refund payments within 10 days of receipt of the refund application.

After the rule was finalized, some processors and States began requesting that FNS reconsider this provision. Several processors claimed that they did not comment on the proposed rule because they were in favor of it. These processors claim that many companies are not able to comply with the requirement. Some processors said that participation in the processing program represents a small percentage of their total sales activity. These processors said that because they often do not have staff working full time on processing related matters, they often accumulate refund applications for a specific time frame (i.e., once per month) and make provisions to arrange for checks to be issued at that time. Very few processors said they have staff sufficient enough to ensure that every single refund application received is paid within 10

days. Processors also stated that school districts do not pay their bills in such a timely manner. Processors said they often must wait 30 days, 45 days and sometimes up to 60 days to receive payment for goods delivered to many school districts across the country. Processors said that in such instances, if recipient agencies file refund applications within 30 days, they may have the refund payment before they actually pay for the product.

At the December 1989 meeting, a change in the regulations to permit processors to pay refunds within 30 days of receipt of the refund application from the recipient agency or the distributor was discussed. Such a change would be consistent with § 252.4(c)(4)(i)(B) of the NCP regulations. FNS received 13 written comments regarding this provision. These comments were split on the issue. Those that were for retaining the requirement as is, stated that recipient agencies prefer payment within 10 days. They further stated that prompt payment is the key to acceptance of the refund system. Those in favor of changing the requirement did so for the reasons mentioned previously.

Under this proposed rule, § 250.30(k)(3) of the State processing regulations would be revised to require processors to make refund payments within 30 days after receipt of any refund application. The Department realizes that all interested parties are not in agreement with this proposed change. However, the Department finds the arguments in favor of this proposed change persuasive.

At the December 1989 processing meeting, a change to permit recipient agencies to file quarterly refund applications if the total refund anticipated is small was also discussed. It was also discussed at the December 1989 meeting that processors be permitted to group together refund applications for small amounts and pay the total amount due a recipient agency on a quarterly basis. The Department received two comments claiming it was very time-consuming and expensive for recipient agencies to file refund applications and for processors to process refund payments for very small amounts. Processors have reported issuing refund checks for less than one dollar.

Under this proposed rule, § 250.30(k)(1) of the State processing regulations and § 252.4(c)(4)(i)(B) of the NCP regulations would be revised to permit recipient agencies to submit refund applications to a single processor on a Federal fiscal quarterly basis if the total anticipated refund due for all purchases from that processor during the quarter is 25 dollars or less. Also, § 250.30(k)(3) would be revised to permit processors to group together refund applications for a single recipient agency on a Federal fiscal quarterly basis if the total anticipated refund due that recipient agency during the quarter is 25 dollars or less. The Department has not experienced this problem where distributors are submitting refund applications. Therefore, the proposed rule would only permit this option where the refund applications are submitted by a recipient agency. The Department believes that clearly delineated dates should be used to measure quarters for purposes of grouping refund applications and refunds under §§ 250.30(k) (1) and (3).

Refund Applications/Performance Reports

As discussed above, § 250.30(k) of the current State processing regulations requires recipient agencies to submit refund applications to the processor within 30 days from the close of the month in which the sales were made. This section also requires the recipient agencies to forward a copy of the refund application to the distributing agency at the same time. No such provision is required in the NCP regulations.

At the Paperwork Reduction Task Force meeting in August 1990, a recommendation was made that recipient agencies need only submit refund applications to the processors. The Task Force believed distributing agencies did not need to receive copies of refund applications because § 250.30(k)(3) also requires processors to send copies of refund applications and payments to distributing agencies. The Department believes this change would eliminate the dual submission of copies of refund applications, would reduce unnecessary paperwork, and would bring State processing and NCP regulations into further alignment.

This proposed rule would amend § 250.30(k)(1) by eliminating the requirement that recipient agencies forward a copy of the refund application to the distributing agency at the same time that they submit the applications to the processor.

Section 250.30(m)(1) of the current State processing regulations requires that performance reports be *received* by the distributing agency no later than the final day of the month following the report period. However, the Department has experienced problems documenting that the reports were submitted and received within the required time frame. The Department has received numerous inquiries from processors and distributing agencies as to whether performance reports *submitted* no later than 30 days from the close of the report period are acceptable. The Department believes that a postmark date could be used to document timely submission of a report. In the Department's experience, it is easier to ascertain the postmark date than the actual day of receipt. Accordingly, FNS is proposing to amend § 250.30(m)(1) of the State processing regulations to require that performance reports be postmarked no later than the final day of the month following the reporting period. Further, since recipient agencies are given 30 days from the close of the month of purchase to submit refund applications, this proposed rule would also revise § 250.30(m)(1) to require the final performance report for the contract period be postmarked no later than 60 days from the close of the contract year.

Because of the increasing availability of facsimile technology, the Department believes clarification on the timing of submission of reports by means of facsimile machines is necessary. Therefore, § 250.17(f) of this proposed rule would provide that where a report is to be postmarked by a specific date and such report is transmitted by means of a facsimile machine, the date printed by the facsimile machine on the facsimile copy may serve as the postmark.

Also at the Paperwork Reduction Task Force meeting, a recommendation was made that distributing agencies should have the flexibility for requiring performance reports less frequently than monthly. The Task Force recommended that regardless of the frequency on reporting required, (1) if a processor has no inventory, no report should be required; (2) if a processor made no sales and had no inventory, no report should be required; or (3) if a processor has an inventory balance, reports will be required even though no sales had been made. However, the Department believes conditions (1) and (2) overlap and confuse the point. A monthly performance report should be required where a processor made sales even if the processor had no inventory. Therefore, the proposed rule would revise section 250.30(m)(1) to include the requirement that performance reports must be submitted monthly unless a processor made no sales and had no inventory during that month. The Department believes this condition would reduce unnecessary paperwork.

Section 252.4(c)(9) of the NCP regulations would be similarly amended to require the submission of a monthly performance report unless a processor

made no sales and had no inventory during that month.

List of Contracting Agencies

Section 250.30(m) of the current regulations outlines the information to be included as part of the performance report processors must submit to each distributing agency. Section 250.30(m)(1)(vii) requires as part of the monthly performance reports, that processors are required to submit a list of all contracting agencies and their locations with which the processor has processing contracts.

The Department believes that requiring the submission of a list of all contracting agencies with which the processor has processing contracts every month is unnecessary and duplicative. This information is because the distributing agency must approve all processing contracts under § 250.30(l) of this part. This proposed rule would amend § 250.30(m) by eliminating paragraph (1)(vii).

Additionally, § 250.30(c)(4)(xv) of the State processing regulations requires that the processing contract contain a provision that the contracting agency provide the processor a list of all recipient agencies eligible to purchase end products under the contract. This requirement was incorporated into the regulations to ensure that sales are only made to eligible recipient agencies with approved processing contracts. However, in the event the list changes throughout the contract year, the contracting agency should be responsible for providing updates to the processor. The proposed rule would revise § 250.30(c)(4)(xv) to require the contracting agency to provide updates to the list of recipient agencies for any changes which occur during the contract period.

Quarterly Processing Activity Reports and Annual Reconciliation Reports

Section 250.30(o)(1) of the current State processing regulations requires distributing agencies to submit quarterly processing inventory reports to the FNS regional office no later than 60 days following the close of each Federal fiscal quarter. Paragraph (n)(3) of the same section requires processors to complete and submit annual reconciliation reports to distributing agencies within 90 days following the end of the contract period. Paragraph (n)(4) of the same section requires distributing agencies to certify the accuracy of the annual reconciliation reports and to forward them to the FNS regional office.

The Paperwork Reduction Task Force committee recommended replacing the fourth quarterly inventory report with the annual reconciliation report. However, the Department believes that the continued submission of separate inventory and annual reconciliation reports would perpetuate a duplicative and burdensome reporting requirement. The Department believes that the process can be better streamlined by replacing the quarterly inventory report and the annual reconciliation report with the monthly performance report with year-to-date totals.

This proposed rule would amend § 250.30(m)(1) of the State processing regulations to require that the monthly performance report contain year-to-date totals. Section 250.30(o)(1) of the proposed rule would require the distributing agency to forward to the FNS regional office the monthly performance report provided by the processor for the last month of each Federal fiscal quarter. Further, where a processor submitted no monthly performance report for the last month of a Federal fiscal quarter pursuant to § 250.30(m)(1), the distributing agency would submit to the FNS regional office the last monthly performance report received from the processor for that Federal fiscal quarter. The proposed rule would require that when forwarding these monthly performance reports, they be postmarked by no later than 60 days following the close of each Federal fiscal quarter, except that such reports should be postmarked no later than 90 days following the close of the contract period.

Additionally, § 250.30(n)(3) of the proposed rule would require that the last monthly performance report for the contract period will also serve as the annual reconciliation report. Further, where a processor submitted no monthly performance report for the last month of the contract period pursuant to § 250.30(m)(1), the distributing agency would submit to the FNS regional office the last monthly performance report received from the processor as the annual reconciliation report. When forwarding this report to the FNS regional office, the distributing agency would certify the accuracy of the information contained in this report as currently required by § 250.30(n)(4) of the current regulations. However, the proposed rule would revise § 250.30(n)(4) to require that this report be postmarked no later than 90 days following the close of the contract period.

List of Subjects in 7 CFR Parts 250 and 252

Aged, Agricultural commodities, Business and industry, Food assistance programs, Food donations, Food processing, Grant programs-social programs, Indians, Infants and children, Price support programs, Reporting and recordkeeping requirements, School breakfast and lunch programs, Surplus agricultural commodities.

For reasons set forth in the preamble, 7 CFR parts 250 and 252 are proposed to be amended as follows:

PART 250—DONATION OF FOODS FOR USE IN THE UNITED STATES, ITS TERRITORIES AND POSSESSIONS AND AREAS UNDER ITS JURISDICTION

1. The authority citation for Part 250 is revised to read as follows:

Authority: Sec. 32, Pub. L. 74–320, 49 Stat. 744 (7 U.S.C. 612c); Pub. L. 75–165, 50 Stat. 323 (15 U.S.C. 713c); secs. 6, 9, Pub. L. 79–396, 60 Stat. 231, 233 (42 U.S.C. 1755, 1758); Sec. 416, Pub. L. 81–439, 63 Stat. 1058 (7 U.S.C. 1431); Sec. 402, Pub. L. 81–665, 68 Stat. 843 (22 U.S.C. 1922); Sec 210, Pub. L. 84–540, 70 Stat. 202 (7 U.S.C. 1859); Sec. 9, Pub. L. 85–931, 72 Stat. 1792 (7 U.S.C. 1431b); Pub. L. 86–756, 74 Stat. 899 (7 U.S.C. 1431 note); Sec. 709, Pub. L. 89–321, 79 Stat. 1212 (7 U.S.C. 1446a–1); Sec. 3, Pub. L. 90–302, 82 Stat. 117 (42 U.S.C. 1761); Secs. 409, 410, Pub. L. 93–288, 88 Stat. 157 (42 U.S.C. 5179, 5180); Sec. 2, Pub. L. 93–326, 88 Stat. 286 (42 U.S.C. 1762a); Sec. 16, Pub. L. 94–105, 89 Stat. 522 (42 U.S.C. 1766); Sec 1304(a), Pub. L. 95–113, 91 Stat. 980 (7 U.S.C. 612c note); Sec 311, Pub. L. 95–478, 92 Stat. 1533 (42 U.S.C. 3030a); Sec. 10, Pub. L. 95–627, 92 Stat. 3623 (42 U.S.C. 1760); Sec. 1114(a), Pub. L. 97–98, 95 Stat. 1269 (7 U.S.C. 1431e); Title II, Pub. L. 98–8, 97 Stat. 35 (7 U.S.C. 612c note); (5 U.S.C. 301); Pub. L. 100–237, 101 Stat. 1733 (7 U.S.C. 612 note); Pub. L. 100–435, 102 Stat. 1645 (7 U.S.C. 612c note); Pub. L. 101–147, 103 Stat. 877, (49 U.S.C. 1751); Title XVII, Pub. L. 101–624, 104 Stat. 3359 (7 U.S.C. 612c note).

2. In § 250.3:

a. The definition of *Fee-for-service* is added in alphabetical order;

b. The definition of *Processing fee* is removed; and

c. The definition of *Processor* is revised.

The addition and revision read as follows:

§ 250.3 Definitions.

* * * * *

Fee-for-service means the price by pound or by case representing a processor's cost of ingredients (other than donated foods), labor, packaging, overhead, and other costs incurred in the conversion of the donated food into the specified end product.

* * * * *

Processor means any commercial facility which processes or repackages donated foods. However, commercial

enterprises, which handle, prepare and/or serve products or meals containing donated foods on-site solely for the individual recipient agency under contract are exempt under this definition.

* * * * *

3. In § 250.17, a new paragraph (f) is added to read as follows:

§ 250.17 Reports.

* * * * *

(f) *Report transmission.* Where a report is to be postmarked by a specific date and such report is transmitted by means of a facsimile machine, the date printed by the facsimile machine on the facsimile copy may serve as the postmark.

4. In § 250.30:

a. The last sentence of paragraph (a) is removed;

b. Paragraph (b)(2)(ii) is revised;

c. Two sentences are added between the second and third sentences of the introductory text of paragraph (c)(1) as set forth below, and the second paragraph (c)(1)(1) is redesignated as paragraph (c)(1)(i).

d. The first sentence of paragraph (c)(4)(ii) is revised and a new sentence is added between the first and second sentences.

e. Paragraph (c)(4)(iii) is revised;

f. Paragraph (c)(4)(vii) is revised;

g. The words "and identify" are added to the end of the introductory text of paragraph (c)(4)(viii)(D);

h. Paragraph (c)(4)(xiii) is revised;

i. Paragraph (c)(4)(xv) is amended by adding the words "and provide updates for any changes which occur during the contract period" at the end of the sentence;

j. Paragraph (c)(5) is amended by adding the words "A provision that" at the beginning of the sentence and is redesignated as paragraph (c)(4)(xvi);

k. A new paragraph (c)(4)(xvii) is added;

l. Paragraph (d) is revised;

m. Paragraph (e) is revised;

n. Paragraphs (f)(1)(i) and (f)(1)(iii) are revised;

o. A new sentence is added after the first sentence in paragraph (f)(2);

p. Paragraph (f)(4) is revised;

q. Paragraph (k)(4) is amended by removing the words "10 days" wherever they appear and adding the words "30 days" in their place;

r. Paragraphs (k)(1) and (k)(3) are revised;

s. The first sentence of paragraph (l) is amended by adding the words "or renewed" after the words "processing contracts entered into";

t. The introductory text of paragraph (m)(1) is revised;

u. Paragraph (m)(1)(vii) is removed and reserved;

v. The first sentence of paragraph (n)(3) is removed and two sentences are added in its place;

w. Paragraph (n)(4) is revised;

x. Paragraph (o)(1) is revised;

y. Paragraph (o)(2) is amended by removing the words "reporting the information identified" and adding the words "the reporting" in their place.

The revisions and additions read as follows:

§ 250.30 State processing of donated foods.

* * * * *

(b) *Permissible contractual arrangements.* * * *

(2) * * *

(ii) When selling end products through a distributor, such sales shall be in accordance with paragraph (e) of this section.

* * * * *

(c) *Requirements for processing contracts.* (1) * * * However, processing contracts may give contracting agencies the option of extending contracts for two 1-year periods, provided that any changed information must be updated before any contract extension is granted, including the information in paragraphs (c)(3), (c)(4)(ii), and (c)(4)(viii)(B) of this section. The processor must have performed to the satisfaction of the contracting agency during the previous contract year, submitted the required annual reconciliation report as required under paragraph (n)(3) of this section, and have its certified public accountant audit report closed as required under paragraph (c)(4)(xi) of this section, if applicable, before the required agreement may be extended. * * *

* * * * *

(4) * * *

(ii) A description of each end product, the quantity of each donated food and the identification of any other ingredient which is needed to yield a specific number of units of each end product (except that the contracting agency may permit the processor to specify the total quantity of any flavorings or seasonings which may be used without identifying the ingredients which are, or may be, components of flavorings or seasonings), the total weight of all ingredients in the batch formula, the yield factor for each donated food, and any pricing information provided by the processor in addition to that required in paragraph (c)(4)(iii) of this section as requested by the contracting agency and a thorough explanation of what this additional pricing information represents. Yield factors and pricing information shall be on separate pages in the contract. * * *

(iii) The contract value of each donated food to be processed and, where processing is to be performed only on a fee-for-service basis as defined in § 250.3, the fee-for-service;

* * * * *

(vii) A provision that end products containing donated foods that are not substitutable under paragraph (f) of this section shall be delivered only to eligible recipient agencies and that end products containing both substitutable and non-substitutable donated foods shall be delivered and sold in accordance with the value pass-through requirements of paragraph (d) and (e) of this section;

* * * * *

(xiii) A provision that the fee-for-service or value passthrough system to be used for the sale of end products to recipient agencies shall be described and be consistent with paragraphs (d) and (e) of this section.

* * * * *

(xvii) A provision that the processor shall provide pricing information summaries and updated pricing information summaries as required in paragraphs (d)(3) and (e)(2) of this section.

(d) *End products sold by processors.*

(1) When recipient agencies pay the processor for end products, such sales shall be under:

(i) A refund system as defined in § 250.3 and in accordance with paragraph (k) of this section; or

(ii) A discount system which provides the price of each unit of end product purchased by eligible recipient agencies to be discounted by the stated contract value of the donated foods contained therein; or

(iii) An alternative value pass-through system under which the value of the donated food contained in each unit of end product shall be passed to the recipient agency and which has been approved by FNS at the request of the distributing agency. Any alternative value pass-through system approved under this paragraph must comply with the sales verification requirements specified in § 250.19(b), or an alternative verification system approved by FNS. The Department retains the authority to inspect and review all pertinent records including records pertaining to the verification of a statistically valid sample of sales. FNS may consider the paperwork and resource burden associated with alternative value pass-through systems when considering approval and reserves the right to deny the approval of

systems which are labor-intensive and provide no greater accountability than those systems permitted under paragraphs (d) and (e) of this section.

(2) When a processor delivers end products produced under a fee-for-service contract, the processor shall separately identify on the bill for the recipient agency the agreed-upon fee-for-service and any delivery costs.

(3) Processors shall provide pricing information summaries to contracting agencies and contracting agencies shall provide this information to recipient agencies as soon as possible after contract approval. If this pricing information changes during the contract period, processors shall provide updated pricing information to the contracting agency 30 days prior to the effective date of the change, which, in turn, shall provide this updated information to eligible recipient agencies.

(e) *End products sold by distributors.*

(1) When a processor transfers end products to a distributor for delivery and sale to recipient agencies, such sales shall be under: (i) A refund system as defined in § 250.3 and in accordance with paragraph (k) of this section; or

(ii) a hybrid system which provides a refund for the contract value of the donated food shall be provided to the distributor in accordance with paragraph (k) of this section and the price of each unit of end product purchased by eligible recipient agencies through a distributor shall be discounted by the contract value of the donated foods contained therein; or

(iii) An alternative value pass-through system under which the contract value of the donated food contained in each unit of end product shall be passed on to the recipient agency and which has been approved by FNS in accordance with paragraph (d)(1)(iii) of this section; or

(iv) When a processor arranges for delivery of processed end products produced under fee-for-service contracts by distributors, the products shall be delivered and invoiced using one of the following procedures:

(A) The recipient agency is billed by the processor for the fee-for-service and the distributor bills the recipient agency for the storage and delivery of the end products; or

(B) The processor arranges for the delivery of end products through a distributor on behalf of the recipient agency. In this system, the processor's invoice must include both the fee-for-service and the distributor's charges as separate, clearly identifiable charges.

(2) Processors shall provide pricing information summaries to contracting agencies and contracting agencies shall provide this information to recipient agencies as soon as possible after contract approval. If this pricing information changes during the contract period, the processor shall provide updated pricing information to the contracting agency, which, in turn, shall provide this information to the eligible recipient agencies.

(3) End products containing meat or poultry together with any other donated food shall not be delivered and sold to a recipient agency through a distributor under a fee-for-service contract under paragraph (e)(1)(iv) of this section.

(f) *Substitution of donated foods with commercial foods.*

(1) * * *

(i) Only butter, cheese, corn grits, cornmeal, flour, macaroni, nonfat dry milk, peanut butter, peanut granules, roasted peanuts, rice, rolled oats, rolled wheat, shortening, vegetable oil, and spaghetti may be substitutable as defined in § 250.3 and such other food as FNS specifically approves as substitutable under paragraph (f)(4) of this section (substitution of meat and poultry items shall not be permitted),

* * * * *

(iii) Distributing agency shall withhold deliveries of donated food from processors that the distributing agency determines have reduced their level of commercial production because of participation in the State processing program.

(2) * * * Where commercial food is authorized for any donated food specifically listed in paragraph (f)(1)(i) of this section, the processor shall maintain records to substantiate that it continues to acquire on the commercial market sufficient purchases of substitutable food for commercial production and any amounts necessary to meet the 100 percent yield requirement. * * *

* * * * *

(4) Processor may request approval to substitute commercial foods for donated foods not specifically listed in paragraph (f)(1)(i) of this section by submitting such request to FNS in writing and satisfying all requirements of paragraphs (f)(1)(ii) and (iii) of this section. FNS will notify the processor in writing of authorization to substitute commercial foods for donated foods not listed in paragraph (f)(1)(i) of this section and such authorization shall apply for the duration of all current contracts entered into by the processor pursuant to this section.

* * * * *

(k) *Refund payments.* (1) When end products are sold to recipient agencies in accordance with the refund provisions of paragraph (d) or (e) of this section, each recipient agency shall submit refund applications to the processor within 30 days from the close of the month in which the sales were made, except that recipient agencies may submit refund applications to a single processor on a Federal fiscal quarterly basis if the total anticipated refund due for all purchases of product from that processor during the quarter is 25 dollars or less.

* * * * *

(3) Not later than 30 days after receipt of the application by the processor, the processor shall make a payment to the recipient agency or distributor equal to the stated contract value of the donated foods contained in the purchased end products covered by the refund application, except that processors may group together refund applications for a single recipient agency on a Federal fiscal quarterly basis if the total anticipated refund due that recipient agency during the quarter is 25 dollars or less. Copies of requests for refunds and payments to recipient agencies and/or distributors shall be forwarded to the appropriate distributing agency by the processor.

* * * * *

(m) *Performance reports.* (1) Processors shall be required to submit to distributing agencies monthly reports of performance under each processing contract with year-to-date totals; however, submission of a monthly performance report shall not be required for a month in which the processor has made no sales and has no inventory. Processors contracting with agencies other than a distributing agency shall submit such reports to the distributing agency having authority over that particular contracting agency. Performance reports shall be postmarked no later than the final day of the month following the reporting period; however, the final performance report for the contract period shall be postmarked no later than 60 postmarked days from the close of the contract year. The report shall include:

* * * * *

(n) *Inventory controls.* * * *

(3) The last monthly performance report for the contract period, as required in paragraph (m)(1) of this section, shall serve as the annual reconciliation report. Where a processor submitted no monthly performance report for the last month of the contract period pursuant to paragraph (m)(1) of this section, the distributing agency shall forward to the FNS regional office the last monthly performance report

received from the processor as the annual reconciliation report. * * *

(4) Distributing agencies shall certify the accuracy of the annual reconciliation report and forward it to the FNS regional office. Such report shall be postmarked no later than 90 days following the close of the contract year. All monies shall be used in accordance with FNS Instruction 410–1, Non-Audit Claims, Food Distribution Program.

* * * * *

(o) *Processing inventory reports.*

(1) Distributing agencies shall forward to the FNS regional office the monthly performance report submitted by the processors in accordance with paragraph (m)(1) of this section for the last month of each Federal fiscal quarter. Where the processor submitted no monthly performance report for the last month of a Federal fiscal quarter pursuant to paragraph (m)(1) of this section, the distributing agency shall forward to the FNS regional office the last monthly performance report received from the processor for that Federal fiscal quarter. Such reports shall be postmarked no later than 60 days following the close of each Federal fiscal quarter, except that such reports shall be postmarked no later than 90 days following the close of the contract year.

* * * * *

PART 252—NATIONAL COMMODITY PROCESSING PROGRAM

1. The authority citation for part 252 continues to read as follows:

Authority: Sec. 416, Agricultural Act of 1949 (7 U.S.C. 1431)

§ 252.3 [Amended]

2. In § 252.3, the first sentence of paragraph (c) is amended by removing the words "When FNS approves the substitution of donated commodities with commercial food or when the agreement permits such substitution" and adding in their place the words "When the processor substitutes commercial food for donated food in accordance with § 252.4(c)(7)".

3. In § 252.4:

a. A new sentence is added to the end of paragraph (b);

b. The next to last sentence of paragraph (c)(1) is revised;

c. The third sentence of the introductory text of paragraph (c)(4) is revised and a new sentence is added following the third sentence;

d. Paragraph (c)(4)(i)(B) is revised;

e. A sentence is added to the end of paragraph (c)(4) (iii);

f. Paragraph (c)(7) is revised;

g. At the end of the introductory text of paragraph (c)(9), a new sentence is added; and

h. Paragraphs (c)(14), (c)(15), (c)(16), and (c)(17) are redesignated as paragraphs (c)(15), (c)(16), (c)(17), and (c)(18), and a new paragraph (c)(14) is added.

The revisions and additions read as follows:

§ 252.4 Application to participate and agreement.

* * * * *

(b) *Agreement between FNS and Participating Food Processors.* * * * However, FNS may extend processing contracts for two 1-year periods, provided that any changed information must be updated before any contract extension is granted, including the information in paragraphs (c)(1) and (c)(5) of this section.

(c) *Processor requirements and responsibilities.* * * *

(1) * * * The end product data schedule shall provide pricing information supplied by the processor as requested by FNS and a thorough explanation of what this pricing information represents. * * *

* * * * *

(4) * * * Regardless of the method used, processors shall provide pricing information summaries to recipient agencies as soon as possible after contract approval by FNS. If the pricing information changes during the contract period, processors shall provide updated pricing information to FNS and the recipient agencies 30 days prior to the effective date. * * *

(i) * * *

(B) *Refund system.* The processor shall invoice the recipient agency for the commercial/gross price of the end product. The recipient agency shall submit a refund application to the processor within 30 days of receipt of the processed end product, except that recipient agencies may submit refund applications to a single processor on a Federal fiscal quarterly basis if the total anticipated refund due for all purchases of end product from that processor during the quarter is 25 dollars or less. The processor shall pay directly to the eligible recipient agency within 30 days of receipt of the refund application from the recipient agency, an amount equal to the established agreement value of donated food per case of end product multiplied by the number of cases delivered to and accepted by the recipient agency, except that processors may group together refund applications for a single recipient agency on a Federal fiscal quarterly basis if the total anticipated refund due that recipient agency during the quarter is 25 dollars or less. In no event shall refund applications for purchases during the period of agreement be accepted by the processor later than 60 days after the close of the agreement period.

* * * * *

(iii) * * * FNS may consider the paperwork and resource burden associated with alternative value pass-through systems when considering approval and reserves the right to deny approval of systems which are labor-intensive and provide no greater accountability than those systems permitted under paragraph (c)(4) of this section.

* * * * *

(7) (i) Only butter, cheese, corn grits, cornmeal, flour, macaroni, nonfat dry milk, peanut butter, peanut granules, roasted peanuts, rice, rolled oats, rolled wheat, shortening, vegetable oil, and spaghetti may be substituted as defined in § 252.2 and such other food as FNS specifically approves as substitutable under paragraph (c)(7)(i)(A) of this section (substitution of meat and poultry items shall not be permitted).

(A) Processors may request approval to substitute commercial foods for donated foods not listed in paragraph (c)(7)(i) of this section by submitting such request to FNS in writing and satisfying the requirements of paragraph (c)(7) of this section. FNS will notify the processor in writing of authorization to substitute commercial foods for donated foods not listed in paragraph (c)(7)(i) of this section and such authorization shall apply for the duration of all current contracts entered into by the processor pursuant to this section.

(B) The processor shall maintain records to substantiate that it continues to acquire on the commercial market amounts of substitutable food consistent with their levels of non-NCP Program production and to document the receipt and disposition of the donated food.

(C) FNS shall withhold deliveries of donated food from processors that FNS determines have reduced their level of non-NCP Program production because of participation in the NCP Program.

(ii) When the processor seeks FNS approval to substitute donated nonfat dry milk with concentrated skim milk under paragraph (c)(7)(i)(A) of this section, an addendum must be added to the request which states:

(A) The percent of milk solids that, at a minimum, must be contained in the concentrated skim milk;

(B) The weight ratio of concentrated skim milk to donated nonfat dry milk:

(*1*) The weight ratio is the weight of concentrated skim milk which equals

one pound of donated nonfat dry milk, based on milk solids;

(*2*) In calculating this weight, nonfat dry milk shall be considered as containing 96.5 percent milk solids;

(*3*) If more than one concentration of concentrated skim milk is to be used, a separate weight ratio must be specified for each concentration;

(C) The processor's method of verifying that the milk solids content is the concentrated skim milk is as stated in the request;

(D) A requirement that the concentrated skim milk shall be produced in a USDA approved plant or in a plant approved by an appropriate regulatory authority for the processing of Grade A milk products; and

(E) A requirement that the contact value of donated food for a given amount of concentrated skim milk used to produce an end product is the value of the equivalent amount of donated nonfat dry milk, based on the weight ratio of the two foods.

(iii) Substitution must not be made solely for the purpose of selling or disposing of the donated commodity in commercial channels for profit.

* * * * *

(9) * * * However, submission of a monthly performance report shall not be required for a month in which the processor has made no sales and has no inventory.

* * * * *

(14) The processor shall not assign the processing contract or delegate any aspect of processing under a subcontract or other arrangement without the written consent of FNS. The subcontractor shall be required to become a party to the processing contract and conform to all conditions contained in that contract.

* * * * *

4. In § 252.5, the first sentence of paragraph (c) is revised to read as follows:

§ 252.5 Recipient agency responsibilities.

* * * * *

(c) *Refunds.* A recipient agency purchasing end products under the NCP Program from a processor utilizing a refund system shall submit a refund application supplied by the processor to the processor within 30 days of receipt of the end products, except that recipient agencies may submit refund applications to a single processor on a Federal fiscal quarterly basis if the total anticipated refund due for all purchases of end product from that processor during the quarter is 25 dollars or less.

* * *

* * * * *

Dated: May 14, 1993.

George A. Braley,

Acting Assistant Secretary for Food and Consumer Services.

[FR Doc. 93–12207 Filed 5–24–93; 8:45 am]

BILLING CODE 3410–30–U

NUCLEAR REGULATORY COMMISSION

10 CFR Part 20

Radiological Criteria for Decommissioning of NRC-licensed Facilities; Workshops

AGENCY: Nuclear Regulatory Commission.

ACTION: Rulemaking Issues Paper: Extension of comment period.

SUMMARY: On December 11, 1992 (57 FR 58727), the NRC published a notice of the public workshops on the enhanced participatory rulemaking on establishing the radiological criteria for the decommissioning of NRC-licensed facilities. In that Notice the Commission solicited written public comments on a Rulemaking Issues Paper which served as the focus of workshop discussions. The comment period on the Rulemaking Issues Paper was to have expired on May 28, 1993. The Commission has received several requests for an extension of the comment period. After considering the requests, the Commission has decided to extend the comment period on the Rulemaking Issues Paper for an additional thirty days. The comment period now expires on June 28, 1993.

DATES: Comments must be received on or before June 28, 1993.

ADDRESSES: Mail written comments on the Rulemaking Issues Paper to: the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Copies of comments received may be examined at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Hand deliver comments to 11555 Rockville Pike, Rockville, Maryland between 7:45 a.m. and 4:15 p.m. on Federal workdays.

FOR FURTHER INFORMATION CONTACT: Francis X. Cameron, Special Counsel for Public Liaison and Waste Management, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301–504–1642.

Dated at Rockville, Maryland this 19th day of May 1993.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 93–12300 Filed 5–24–93; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93–NM–38–AD]

Airworthiness Directives; Boeing Model 747–100, –200, and –300 Series Airplanes, Equipped with BFGoodrich Evacuation Slide/Rafts

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 747–100, –200, and –300 series airplanes. This proposal would require modification of certain regulators on evacuation slide/rafts on doors 1, 2, 4, and 5. This proposal is prompted by reports that the regulators installed on these airplanes are identical in design to those installed on other transport category airplanes and have caused certain evacuation slide/rafts to fail to inflate immediately upon deployment on those airplanes. The actions specified by the proposed AD are intended to prevent delayed inflation of evacuation slide/rafts, which could delay or impede the evacuation of passengers during an emergency.

DATES: Comments must be received by July 19, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–38–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 BFGoodrich, Aircraft Evacuation Systems, 3414 South 5th Street, Phoenix, Arizona 85040. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Andrew Gfrerer, Aerospace Engineer,

Systems and Equipment Branch, ANM–131L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806–2425; telephone (310) 988–5338; fax (310) 988–5210.

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 93–NM–38–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. 93–NM–38–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

Recently, the FAA has received reports that the regulators installed on certain transport category airplanes have caused the failure of certain evacuation slide/rafts to inflate immediately upon deployment. Investigation has indicated that this hindrance to the inflation of the evacuation slide/rafts may be attributed to friction within the regulator. These regulators are identical in design to those installed on Boeing Model 747–100, –200, and –300 series airplanes.

Further, the FAA has received reports of corrosion on non-cadmium plated compression springs used in the valve bodies of the regulators on certain BFGoodrich evacuation slide/rafts installed on Boeing Model 747–100, –200, and –300 series airplanes. Investigation has indicated that the cause of such corrosion may be attributed to contact between the valve body and the compression spring, which are manufactured with dissimilar metals.

These conditions, if not corrected, could result in delayed inflation of evacuation slide/rafts, which could delay or impede the evacuation of passengers during an emergency.

The FAA has reviewed and approved BFGoodrich Service Bulletin 4A3221–25–250, dated March 12, 1993, that describes procedures for modification of certain regulators on BFGoodrich evacuation slide/rafts installed on Boeing Model 747–100, –200, and –300 series airplanes. This modification involves substituting the present lubricant with Parker "Super-O-Lube" and replacing the currently installed actuator with an actuator having improved geometry and a cocking arm with a return spring. This modification also entails replacing the non-cadmium plated springs with cadmium plated springs, which would preclude the formation of electrolytic corrosion in the regulator body. This modification would ensure consistent operation of the regulator.

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 require modification of certain regulators on BFGoodrich evacuation slide/rafts on doors 1, 2, 4, and 5 installed on Boeing Model 747–100, –200, and –300 series airplanes. The actions would be required to be accomplished in accordance with the service bulletin described previously.

There are approximately 2,100 BFGoodrich evacuation slide/rafts installed on Boeing Model 747–100, –200, and –300 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 630 evacuation slide/rafts are installed on Boeing Model 747–100, –200, and –300 series airplanes of U.S. registry that would be affected by this proposed AD. It would take approximately 16.5 work hours per slide/raft to accomplish the proposed actions, and the average labor rate is $55 per work hour. Required parts would cost approximately $790 per slide/raft. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $1,069,425, or $1,697.50 per slide/raft. 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 adding the following new airworthiness directive:

Boeing: Docket 93–NM–38–AD.

Applicability: Model 747–100, –200, and –300 series airplanes, equipped with BFGoodrich evacuation slide/rafts, as listed in BFGoodrich Service Bulletin 4A3221–25–250, dated March 12, 1993, having regulator part number 4A3194–1, –2, or –3; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent delayed inflation of evacuation slide/rafts, which could delay or impede the

evacuation of passengers during an emergency, accomplish the following:

(a) Within 36 months after the effective date of this AD, modify BFGoodrich evacuation slide/rafts having regulator part number 4A3194–1, –2, or –3, installed on doors 1, 2, 4, and 5, in accordance with BFGoodrich Service Bulletin 4A3221–25–250, dated March 12, 1993.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles 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, Los Angeles ACO.

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

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

Issued in Renton, Washington, on May 19, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–12293 Filed 5–24–93; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 39

[Docket No. 93–NM–42–AD]

Airworthiness Directives; British Aerospace Model BAe 146 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 all British Aerospace Model BAe 146 series airplanes, that currently requires a one-time inspection to detect cracking of the upper main fitting of the nose landing gear, and replacement or repair of cracked parts. That action was prompted by reports of cracking in the main fittings of the nose landing gear. This action would require repetitive inspections to detect cracking of the upper main fitting of the nose landing gear, and replacement or repair of cracked parts. The actions specified by the proposed AD are intended to prevent failure of the main fitting, which could lead to collapse of the nose landing gear during landing.

DATES: Comments must be received by July 19, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–42–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from British Aerospace, Inc., Avro Division, 22070 Broderick Drive, Sterling, Virginia 20166. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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

SUPPLEMENTARY INFORMATION:

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 93–NM–42–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. 93–NM–42–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On November 12, 1992, the FAA issued AD 92–25–08, Amendment 39–8423 (57 FR 57883, December 8, 1992), applicable to all British Aerospace Model BAe 146 series airplanes, to require a one-time inspection to detect cracking of the upper main fitting of the nose landing gear, and replacement or repair of cracked parts. That action was prompted by reports of cracking in the main fittings of the nose landing gear. The requirements of that AD are intended to prevent failure of the main fitting, which could lead to collapse of the nose landing gear during landing.

Since issuance of that AD, the manufacturer has accumulated data that substantiates the need for repetitive inspections to detect cracking of the upper main fitting of the nose landing gear. Cracking in the upper main fitting, if not detected and corrected, could result in failure of the main fitting, which could lead to collapse of the nose landing gear during landing.

British Aerospace has issued BAe 146 Inspection Service Bulletin S.B. 32–131, Revision 1, dated November 12, 1992, that describes procedures for performing an initial and repetitive eddy current or ultra high sensitivity penetrant inspections to detect cracking of the upper main fitting of the nose landing gear, and replacement or repair of cracked parts. This service bulletin is essentially identical to the original issue, but recommends that the inspections be performed repetitively. The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, classified this revised service bulletin as mandatory.

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

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would

supersede AD 92–25–08 to require repetitive eddy current or ultra high sensitivity penetrant inspections to detect cracking of the upper main fitting of the nose landing gear, and replacement or repair of cracked parts. The FAA considers that repetitive inspections are warranted in order to detect cracking in the upper main fittings in a timely manner, since cracking has been reported in this area. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 45 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2.5 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $6,188, or $138 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 39–8423 (57 FR 57883, December 8, 1992), and by adding a new airworthiness directive (AD), to read as follows:

British Aerospace: Docket 93–NM–42–AD. Supersedes AD 92–25–08, Amendment 39–8423.

Applicability: All Model BAe 146 series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the main fitting, which could lead to collapse of the nose landing gear during landing, accomplish the following:

Note: Paragraphs (a)(1) and (b)(1) of this AD restate the requirements of AD 92–25–08, paragraphs (a) and (b). As allowed by the phrase, "unless accomplished previously," if the requirements of AD 92–25–08 have been accomplished previously, paragraphs (a)(1) and (b)(1) of this AD do not require that initial inspection to be repeated.

(a) For airplanes on which nose landing gear part numbers 200876001 or 200876003 have been installed:

(1) Prior to the accumulation of 4,000 total landings or within 30 days after January 12, 1993 (the effective date of AD 92–25–08, Amendment 39–8423), whichever occurs later, conduct an eddy current or ultra high sensitivity penetrant inspection of the nose landing gear, in accordance with British Aerospace BAe 146 Inspection Service Bulletin S.B. 32–131, dated December 6, 1991; or Revision 1, dated November 12, 1992.

(2) Within 4,000 landings after accomplishing the inspection required by paragraph (a)(1) or within 30 days after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 4,000 landings, repeat the inspection.

(3) If cracking is detected, prior to further flight, replace the currently installed nose landing gear with a new or serviceable unit or repair the crack in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Thereafter, repeat the inspection required by paragraph (a)(1) at intervals not to exceed 4,000 landings.

(b) For airplanes on which nose landing gear part numbers 200876002, 200876004, or 201138002 have been installed:

(1) Prior to the accumulation of 16,000 total landings or within 30 days after January 12, 1993 (the effective date of AD 92–25–08, Amendment 39–8423), whichever occurs later, conduct an eddy current or ultra sensitivity penetrant inspection of the nose landing gear, in accordance with British Aerospace BAe 146 Inspection Service Bulletin S.B. 32–131, dated December 6, 1991; or Revision 1, dated November 12, 1992.

(2) Within 8,000 landings after accomplishing the inspection required by paragraph (b)(1) or within 30 days after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 8,000 landings, repeat the inspection.

(3) If cracking is detected, prior to further flight, replace the currently installed nose landing gear with a new or serviceable unit or repair the crack in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Thereafter, repeat the inspection required by paragraph (b)(1) at intervals not to exceed 8,000 landings.

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

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

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

Issued in Renton, Washington, on May 19, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–12294 Filed 5–24–93; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 39

[Docket No. 93–NM–46–AD]

Airworthiness Directives; de Havilland, Inc., Model DHC–8 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain de Havilland Model DHC–8 series airplanes. This proposal would require repetitive inspections of the passenger service unit (PSU) printed circuit boards and power supply connectors to detect corrosion and evidence of overheating; and repair or replacement of the circuit boards or

replacement of connectors, if necessary. This proposal is prompted by reports that certain PSU printed circuit boards and power supply connectors have overheated in service. The actions specified by the proposed AD are intended to prevent overheating of the PSU printed circuit board and power supply connectors, which could lead to a fire in the PSU.

DATES: Comments must be received by July 19, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–46–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 de Havilland, Inc., Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 181 South Franklin Avenue, room 202, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Michele Maurer, Aerospace Engineer, Systems and Equipment Branch, ANE–173, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 181 South Franklin Avenue, room 202, Valley Stream, New York 11581; telephone (516) 791–6428; fax (516) 791–9024.

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 93–NM–46–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. 93–NM–46–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

Transport Canada Aviation, which is the airworthiness authority for Canada, recently notified the FAA that an unsafe condition may exist on certain de Havilland Model DHC–8 series airplanes. Transport Canada Aviation advises that certain passenger service unit (PSU) printed circuit boards and power supply connectors installed in these airplanes have overheated in service. Subsequent investigation has revealed that such overheating is caused by moisture ingress into the PSU connectors, which results in corrosion of the printed circuit board pins and connector interfaces. Such corrosion causes increased resistance at these interfaces and, consequently, raises the temperature within the PSU. This condition, if not corrected, could lead to overheating of the PSU printed circuit board and power supply connectors, which could lead to a fire in the PSU.

De Havilland, Inc., has issued Alert Service Bulletin S.B. A8–33–30, Revision 'A', dated December 18, 1992, that describes procedures for conducting repetitive visual inspections of PSU printed circuit boards and power supply connectors to detect corrosion and evidence of overheating; and repair or replacement of the circuit board or replacement of connectors. If any inspection detects corrosion on the circuit board, all evidence of corrosion is removed or the board is replaced. If the board has overheated, it is replaced. If corrosion or overheat is detected on either connector, the affected connector is replaced. Transport Canada Aviation classified this service bulletin as mandatory and issued Canadian Airworthiness Directive CF–93–01, dated January 15, 1993, in order to assure the continued airworthiness of these airplanes in Canada.

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

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require repetitive visual inspections of the PSU printed circuit boards and power supply connectors to detect corrosion and evidence of overheating. If any corrosion or evidence of overheating of the circuit board is detected, the proposed AD would require the repair or replacement of the circuit board. If any corrosion or evidence of overheating of the connectors is detected, the proposed AD would require replacement of the affected connector. The proposed AD would also require that all findings of corrosion or overheating be reported to the manufacturer. The actions would be required to be accomplished in accordance with the service bulletin described previously.

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

The FAA estimates that 133 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per PSU to accomplish the proposed actions, and that the average labor rate is $55 per work hour. There could be approximately 20 to 40 PSU's installed on each airplane, depending on the airplane model and interior configuration. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be between $2,200 and $4,400 per airplane ($110 per PSU.) 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 adding the following new airworthiness directive:

De Havilland, Inc.: Docket 93–NM–46–AD.

Applicability: Model DHC–8 series airplanes, equipped with passenger service units part numbers 10–1418–1/2 and 10–1081–3/–4/–5/–6; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent overheating of the passenger service unit (PSU) printed circuit board and power supply connectors, which could lead to a fire in the PSU, accomplish the following:

(a) Within 300 hours time-in-service after the effective date of this AD, or within 30 days after the effective date of this AD, whichever occurs later: Conduct a visual inspection of all PSU printed circuit boards and power supply connectors to detect corrosion and evidence of overheating, in accordance with paragraph III. of de Havilland Alert Service Bulletin S.B. A8–33–30, Revision 'A', dated December 18, 1992.

(1) If no corrosion or evidence of overheating is detected, repeat the inspection at intervals not to exceed 600 hours time-in-service.

(2) If any corrosion or evidence of overheating of the PSU printed circuit board is detected as a result of any inspection, prior to further flight, either repair or replace the PSU printed circuit board in accordance with the service bulletin. Thereafter, repeat the inspection at intervals not to exceed 600 hours time-in-service.

(3) If any corrosion or evidence of overheating of the power supply connectors is detected as a result of any inspection, prior to further flight, replace the affected power supply connector, in accordance with the service bulletin. Thereafter, repeat the inspection at intervals not to exceed 600 hours time-in-service.

(b) Within 10 days after accomplishing each inspection required by paragraph (a) of this AD, notify de Havilland, Inc., of all findings of corrosion or overheating, in accordance with de Havilland Alert Service Bulletin S.B. A8–33–30, Revision 'A', dated December 18, 1992. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(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, New York Aircraft Certification Office (ACO), FAA, Engine and Propeller Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

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

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

Issued in Renton, Washington, on May 19, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–12292 Filed 5–24–93; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 39

[Docket No. 93–NM–39–AD]

Airworthiness Directives; McDonnell Douglas Model DC–9 and Model DC–9–80 Series Airplanes, Equipped With BFGoodrich Evacuation Slides

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9 and Model DC–9–80 series airplanes. This proposal would require modification of certain regulators on evacuation slides on the forward entry/service, aft service, and tailcone exit doors. This proposal is prompted by reports that, under certain conditions, certain evacuation slides failed to inflate immediately. The actions specified by the proposed AD are intended to prevent delayed inflation of the evacuation slide, which could delay or impede the evacuation of passengers during an emergency.

DATES: Comments must be received by July 19, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–39–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 BFGoodrich, Aircraft Evacuation Systems, 3414 South 5th Street, Phoenix, Arizona 85040. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806–2425.

FOR FURTHER INFORMATION CONTACT: Andrew Gfrerer, Aerospace Engineer, Systems and Equipment Branch, ANM–131L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806–2425; telephone (310) 988–5338; fax (310) 988–5210.

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 93–NM–39–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. 93–NM–39–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

Recently, the FAA has received reports that, under certain conditions, certain regulator valves may impede the inflation of evacuation slides on the forward entry/service, aft service, and tailcone exit doors installed on McDonnell Douglas Model DC–9 and Model DC–9–80 series airplanes. Investigation has indicated that this hindrance to the inflation of the evacuation slides may be attributed to friction within the regulator. This condition, if not corrected, could result in delayed inflation of the evacuation slide, which could delay or impede the evacuation of passengers during an emergency.

The FAA has reviewed and approved BFGoodrich Service Bulletin 4A3106/4A3153–25–258, dated March 29, 1993, that describes procedures for modification of certain regulators on evacuation slides on the forward entry/service, aft service, and tailcone exit doors. This modification involves substituting the present lubricant with Parker "Super-O-Lube" and replacing the compression spring with a new spring. This modification also entails replacing the currently installed actuator with an actuator having improved geometry and a cocking arm with a return spring, which would ensure consistent operation of the regulator.

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 require modification of certain regulators on BFGoodrich evacuation slides on the forward entry/service, aft service, and tailcone exit doors installed on McDonnell Douglas Model DC–9 and Model DC–9–80 series airplanes. The actions would be required to be accomplished in accordance with the service bulletin described previously.

There are approximately 400 BFGoodrich evacuation slides installed on McDonnell Douglas Model DC–9 and Model DC–9–80 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 240 evacuation slides are installed on McDonnell Douglas Model DC–9 and Model DC–9–80 series airplanes of U.S. registry that would be affected by this proposed AD. It would take approximately 3 work hours per slide to accomplish the proposed actions, and the average labor rate is $55 per work hour. Required parts would cost approximately $660 per slide. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $198,000, or $825 per slide. 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 adding the following new airworthiness directive:

McDonnell Douglas: Docket 93–NM–39–AD.

Applicability: Model DC–9 and Model DC–9–80 series airplanes, equipped with BFGoodrich evacuation slides, as listed in BFGoodrich Service Bulletin 4A3106/4A3153–25–258, dated March 29, 1993, having regulator part number 4A3106–1, –2, or 4A3153, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent delayed inflation of the evacuation slide, which could delay or impede the evacuation of passengers during an emergency, accomplish the following:

(a) Within 12 months after the effective date of this AD, modify BFGoodrich evacuation slides having regulator part number (P/N) 4A3106–1, –2, or 4A3153, installed on forward entry/service, aft service, and tailcone exit doors, in accordance with BFGoodrich Service Bulletin 4A3106/4A3153–25–258, dated March 29, 1993.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles 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, Los Angeles ACO.

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

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

Issued in Renton, Washington, on May 19, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–12291 Filed 5–24–93; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 141

[Docket No. RM93–10–000]

New Reporting Requirement Under the Federal Power Act and Changes to Form No. FERC–714; Proposed Rulemaking; Extension of Time

May 18, 1993.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking; extension of time.

SUMMARY: On March 30, 1993, the Commission issued a proposed rule to create a new reporting requirement which will inform potential transmission customers, State regulatory authorities, and the public of potentially available transmission capacity and known constraints as required under the Federal Power Act as amended by the Energy Policy Act of 1992. (58 FR 17544, April 5, 1993). An extension of time has been granted at the request of various interested groups for the filing of comments on the proposed rule.

DATES: The time for filing comments is extended from May 20, 1993 to June 21, 1993.

ADDRESSES: Office of the Secretary, 825 North Capitol Street NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT:

Daniel L. Larcamp (Legal Information), Assistant General Counsel, Electric Rates and Corporate Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, (202) 208–2088 Docket No. RM93–10–000

William Booth (Technical Information), Office of Electric Power Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 208–0849.

Lois D. Cashell,

Secretary.

[FR Doc. 93–12318 Filed 5–24–93; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 946

Virginia Regulatory Program; Coal Surface Mining Reclamation Fund

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

ACTION: Proposed rule.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Virginia permanent regulatory program (hereinafter, the Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment includes changes to §§ 45.1–243 and 45.1–258 of the Code of Virginia as enacted by the Virginia General Assembly during its 1993 session. The proposed changes to the approved States program were approved by the General Assembly as House bill (HB) 1687. The proposed changes will allow Virginia to implement provisions of the Federal Energy Policy Act of 1992 relative to the replacement of water supplies damaged by underground mining activities.

This document sets forth the times and locations that the Virginia program and proposed amendment to the program are available for public inspection, the comment period during which interested parties may submit written comments on the proposed amendment, and the procedures that will be followed regarding the public hearing, if one is required.

DATES: Written comments must be received on or before 4 p.m. on June 24, 1993. If requested, a public hearing on the proposed amendment will be held on June 21, 1993; requests to present testimony at the hearing must be received on or before 4 p.m. on June 9, 1993.

ADDRESSES: Written comments and requests to testify at the hearing should be mailed or hand delivered to Mr. Robert A. Penn, Director, Big Stone Gap Field Office at the first address listed below. If a hearing is requested, it will be held at the same address.

Copies of the Virginia program, proposed amendments and all written comments received in response to this document will be available for review at the locations listed below during normal business hours Monday through Friday, excluding holidays. Each requestor may receive, free of charge, one copy of the proposed amendment by contacting the OSM Big Stone Gap Field Office.

Office of Surface Mining Reclamation and Enforcement, Big Stone Gap Field Office, P.O. Drawer 1216, Powell Valley Square Shopping Center, room 220, Route 23, Big Stone Gap, Virginia 24219, Telephone (703) 523–4303.

Virginia Division of Mined Land Reclamation, P.O. Drawer 900, Big Stone Gap, Virginia 24219, Telephone (703) 523–8100.

FOR FURTHER INFORMATION CONTACT: Mr. Robert A Penn, Director, Big Stone Gap Field Office, Telephone (703) 523–4303.

SUPPLEMENTARY INFORMATION:

I. Background

The Secretary of the Interior approved the Virginia program on December 15, 1981. Information pertinent to the general background and revisions to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval can be found in the December 15, 1981, **Federal Register** (46 FR 61085–61115). Subsequent actions concerning the conditions of approval and proposed amendments are identified at 30 CFR 946.12, 946.13, 946.15, and 946.16.

II. Discussion of Amendments

By letter dated May 6, 1993, (Administrative Record No. VA–823) Virginia submitted a proposed amendment to its program pursuant to SMCRA. The proposed amendment includes changes enacted (HB 1687) during the 1993 session of the Virginia General Assembly. House bill 1687 amended § 45.1–243. A. (Surface effects of underground coal mining operations) to include a reference to Section 720(a)(1) of the Surface Mining Control and Reclamation Act. The following sentence was added to the end of § 45.1–243. A.: "Nothing in § 720(a)(1) of the federal act shall be construed to prohibit or interrupt underground coal mining operations." In order to protect the stability of the land, § 45.1–243. B. was modified to allow the Director to suspend underground coal mining under major impoundments (impoundments replaces "implements" in the existing language).

Under § 45.1–258. (Replacement of water supply) subsections B., C., D., and E. have been created as a result of the legislation. The text of the new sections is presented below:

§ 45.1–258. B. Underground coal mining operations conducted after October 24, 1992, shall promptly replace any drinking, domestic, or residential water supply from a well or spring in existence prior to the

application for a surface coal mining and reclamation permit, which has been affected by contamination, diminution, or interruption resulting from underground coal mining operations. Until amendments to the regulations governing the permanent state regulatory program implementing the provisions of this subsection are effective, the Director shall issue guidelines in accordance with subdivision A 1 of § 45.1–230 regarding the replacement of any water supply pursuant to this subsection. Nothing in this subsection shall be construed to prohibit or interrupt underground coal mining operations.

§ 45.1–258. C. Each operator of an underground coal mine shall record the daily progress of mining operations on a mine map or maps maintained at the mine site or in the company office. The map or maps shall, at a minimum, include information on the daily progress of mining operations conducted after October 24, 1992, and be maintained until the completion of the mining. The operator shall provide the map or maps to the Division upon completion of mining and upon request of the Director.

§ 45.1–258. D. If the Director has ordered replacement under subsection B of this section and the operator subject to the order has failed to provide the map or maps in accordance with subsection C of this section, then the Director's order shall not be overturned absent clear and convincing evidence to the contrary. Upon conclusion of an investigation, if the Director does not order replacement under the provisions of subsection B of this section and reasonable access for a pre-mining survey was denied, the Director's determination shall not be overturned absent clear and convincing evidence to the contrary.

§ 45.1–258. E. Each operator of an underground coal mine shall provide a certificate issued by an insurance company licensed to do business in the Commonwealth certifying that the operator has a public liability insurance policy in force for the underground coal mining operation which shall provide for protection in an amount adequate to replace any water supply as required by subsection B of this section. The policy shall be maintained in full force during the term of the permit, including any renewal thereof, and including the liability period necessary to complete all reclamation operations under this chapter. The provisions of this subsection shall expire on the date the amendments to the regulations governing the permanent state regulatory program implementing the provisions of subsection B of this section are approved for the Commonwealth by the Secretary of the Interior of the United States.

III. Public Comments Procedures

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

Written Comments

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

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by close of business on June 9, 1993. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment, and who wish to do so, will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Public Meeting

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendments may request a meeting at the Big Stone Gap Field Office by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings will be open to the public and, if possible, notices of meetings will be posted in advance at the locations listed under **ADDRESSES.** A written summary of each public meeting will be made part of the Administrative Record.

Executive Order 12291

On July 12, 1984, the Office of Management and Budget (OMB) granted the Office of Surface Mining Reclamation and Enforcement (OSM) an exception from sections 3, 4, 7 and 8 of Executive Order 12291 for actions related to approval or conditional approval of State regulatory programs, actions and program amendments. Therefore, preparation of a regulatory impact analysis is not necessary and OMB regulatory review is not required.

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of the Surface Mining Control and Reclamation Act (SMCRA) (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.13 and 732.17(h)(10), decision on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3507 *et seq.*

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have

a significant economic impact on a substantial number of entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Hence, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR 946

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 14, 1993.

Jeffrey D. Jarrett,

Acting Assistant Director, Eastern Support Center.

[FR Doc. 93–12288 Filed 5–24–93; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. 1

[FRL–4658–7]

Public Meeting of the Architectural and Industrial Maintenance Coatings Regulatory Negotiation Committee

AGENCY: Environmental Protection Agency.

ACTION: Public meeting.

SUMMARY: As required by the Federal Advisory Committee Act, we are giving notice of the next public meeting of the Architectural and Industrial Maintenance Coatings Regulatory Negotiation Committee. The meeting is open to the public without advance registration.

The purpose of the meeting is to continue work on development of the rule.

DATES: The Committee meeting will be held on June 8, from 9 a.m. to 6 p.m., and on June 9, 1993 from 8:30 a.m. to 4 p.m.

ADDRESSES: The meeting will be held at Ramada Renaissance Hotel, Herndon, Virginia (near Dulles Airport). Phone: (703) 478–2900.

FOR FURTHER INFORMATION CONTACT: Persons needing further information on the substantive matters of the rule should contact Ellen Ducey, Office of Air Quality Planning and Standards, Environmental Protection Agency, MD–13, Research Triangle Park, NC 27711 (919) 541–5408. Persons needing further information on procedural or logistical matters should call the Committee's facilitator, Barbara Stimson, The Keystone Center, Keystone, CO (303) 468–5822.

Dated: May 19, 1993.

Deborah S. Dalton,

Deputy Director, EPA Consensus and Dispute Resolution Program, Office of Regulatory Management and Evaluation.

[FR Doc. 93–12371 Filed 5–24–93; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 217 and 227

[Docket No. 930479–3079]

Sea Turtle Conservation; Shrimp Trawling Requirements

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

ACTION: Proposed rule and request for comments.

SUMMARY: NMFS proposes to amend the regulations protecting sea turtles to allow permanent compliance with tow time limits as an alternative to the use of turtle excluder devices (TEDs) by shrimp trawlers in a small area off the coast of North Carolina from March 1 through November 30 each year. This area seasonally exhibits high concentrations of red and brown algae that make trawling with TEDs impracticable. A tow-time limit of 30 minutes from May 15 through August 15, each year; 55 minutes from April 1 through May 14, and August 16 through October 31; and 75 minutes during March and November, each year, will allow fishermen to harvest shrimp efficiently during the traditional shrimping season (March through November) and provide adequate protection for sea turtles in this area.

DATES: Written comments on this proposed rule must be received not later than June 24, 1993.

ADDRESSES: Copies of the environmental assessment (EA) for this action may be obtained from and comments on this proposed rule should be sent to Charles A. Oravetz, Southeast Regional Office, NMFS, 9450 Koger Boulevard, St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Phil Williams, NMFS National Sea Turtle Coordinator (301 713–2322) or Charles A. Oravetz, Chief, Protected Species Program, NMFS Southeast Region at 813/893–3366.

SUPPLEMENTARY INFORMATION:

Background

All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the Endangered Species Act of 1973 (ESA), U.S.C. 1531 *et seq.* Incidental capture by shrimp trawlers has been documented for five species of sea turtles that occur in offshore waters of North Carolina.

Final sea turtle conservation regulations at 50 CFR parts 217 and 227, effective December 1, 1992, require all shrimp trawlers, regardless of length, in offshore waters of the Atlantic Area, including off North Carolina, to have an approved turtle excluder device (TED) installed in each net rigged for fishing year-round, unless specifically exempted.

Pursuant to the December 1, 1992, final rule (57 FR 57348, December 4, 1992) at 50 CFR 227.72(e)(3)(ii), the Assistant Administrator for Fisheries, NOAA (Assistant Administrator), may allow, for periods of up to 30 days, compliance with tow-time restrictions as an alternative to the TED requirement of 50 CFR 227.72(e)(2)(i) if he/she determines that the presence of algae, seaweed, debris or other special environmental conditions in a particular area makes trawling with TED-equipped nets impracticable. This rule proposes to make compliance with tow-time limits a permanent alternative in a small area adjacent to the coast of North Carolina.

Special Environmental Conditions

Since the TED regulations were implemented in offshore waters, a small group of fishermen who participate in the shrimp fishery in a small area off the coast of North Carolina have complained that they cannot economically harvest shrimp with TEDs installed because high concentrations of algae clog the TEDs. The area in question is approximately 30 nautical miles (nm) long, between Rich Inlet, North Carolina (34°17.6′N. latitude), and Browns Inlet, North Carolina (34°35.7′N. latitude), and extends offshore 1 nm (North Carolina restricted area). The bottom between Rich and Browns Inlets consists of scattered rocks, sea grasses, and concentrations of algae. Shrimpers harvest the algae in order to catch the shrimp that inhabit the algae. TEDs are impractical because they clog or exclude a large portion of the algae. The algae,

initially thought by NMFS to consist solely of a winged species of the brown algae *Diclyopteris*, was recently determined to consist of several species, including at least one red alga, *Halymenia* sp. The algae reportedly grow on adjacent offshore hard bottom areas and in the restricted area. Some offshore algae is thought to break loose naturally and during storms and rough weather, and accumulate in shallow coastal waters, adding to the nearshore concentration. The unpredictable concentration of algae in this area and limited trawlable bottom broken by stretches of rocky, untrawlable bottom, makes trawling problematic year-round. Consequently, only about 40 fishermen with extensive local knowledge fish in these waters. They, generally limit their fishing activity to day time periods to minimize the threat of gear loss and to allow sorting of catch in daylight. Fishermen report that when algae are heavily concentrated, they can only tow for 15–30 minutes even without a TED. If algae concentrations are lighter, tow times increase correspondingly, but normally do not exceed 90 minutes. During shrimping season, normally from about March through November, the algae are always present, but density is seasonally dependent, with higher concentrations in summer months, forcing shorter tows. In colder months, when algae concentrations are lighter and TED clogging is less of a problem, fishermen will likely opt to use TEDs rather than tow-time limits in order to increase tow times and optimize catches.

Though the area in which the algae concentration is problematic for these local fishermen is small, the area is nevertheless an important, productive shrimping ground. Offshore shrimp grounds are limited off North Carolina and, consequently, the trawlable bottom in the restricted area is important to local shrimpers, even though the algae pose a problem.

NMFS Assessment of the Algae Problem

NMFS gear specialists conducted an assessment of the algae problem in July 1989 and documented the presence of large concentrations of brown algae near New River Inlet, which lies between Rich and Browns Inlets. Several different types of TEDs were evaluated for use in this area. A large grid-type TED, specifically modified to exclude sea grass, was tested and compared with non-TED equipped nets. Shrimp catches with and without TEDs were highly variable; both TED and non-TED equipped nets clogged with algae. The TED-equipped net excluded more algae than the control net, both exclusion of algae resulted in exclusion of shrimp. NMFS' test results suggested that a technical option may not exist to harvest shrimp effectively in heavy concentrations of brown algae in TED-equipped trawls when the shrimp are harvested from the algae.

Shrimp fishermen cooperating with the North Carolina Division of Marine Fisheries (NCDMF) and North Carolina Sea Grant (Sea Grant) tested additional weedless-type TEDs with the same result. The weedless TEDs released a significant portion of the algae, but in so doing also excluded the shrimp within.

History of the Local Fishery

Algae concentrations containing harvestable quantities of shrimp have been known to exist for many years in the North Carolina restricted area. Prior to implementation of TED regulations, fishermen were able to harvest the algae and associated shrimp using standard shrimp trawls. Tow duration was limited by abundance of algae and, according to fishermen, seldom exceeded 90 minutes. Shrimping traditionally occurred from around March through November, depending upon the abundance of shrimp.

The TED regulations, first effective October 1, 1987, originally required TEDs in the Atlantic area, including the North Carolina restricted area, from May through August of each year, commencing May 1, 1988. Subsequently, interim rules and a final rule required the use of TEDs from September 1, 1991, through April 30, 1992 (56 FR 43713, September 4, 1991), and from September 1, 1992, onward (57 FR 40861, September 8, 1992; 57 FR 57348, December 4, 1992), effectively requiring TED-use year-round in this fishery. Since the imposition of TED regulations, fishermen in the restricted area have complained about shrimp losses associated with algal clogging of TEDs.

Tow Times as an Alternative to TEDs

In an April 1992 meeting involving local fishermen, NMFS, Sea Grant, and NCDMF, the algae problem was formally addressed. Fishermen requested that they be allowed to comply with tow-time limits in lieu of using TEDs. They provided affidavits that they would report other fishermen who violated tow-time restrictions if such an option were authorized. Sea Grant and NCDMF corroborated fishermen's claims that the algae problem was severe in the area between Rich and Browns Inlets, and that TEDs would not work effectively in the area. NCDMF offered to issue permits to affected vessels (43 eventually registered), to provide some observer coverage in cooperation with NMFS, and to vigorously assist NMFS with enforcement.

NMFS agreed to consider allowing compliance with tow time limits as an option to the use of TEDs in the algae-affected area. The National Academy of Sciences report, entitled "Decline of the Sea Turtles: Cause and Prevention," provides guidance on the effectiveness of tow times as an alternative to TEDs. This report concluded that tow times of 40 minutes (bottom time) in summer months and 60 minutes (bottom time) during winter months would provide protection comparable to that afforded by TEDs. Thus, a tow-time limitation, if adhered to, appeared to be an effective alternative to mandatory TED use and would provide comparable protection for sea turtles.

NMFS has previously recognized that enforcement of tow-time limitations is difficult and expensive and that shrimp industry-wide compliance with tow-time limitations has been poor (See e.g., 57 FR 18466, April 30, 1992; 57 FR 33452, July 29, 1992; 57 FR 40859, September 8, 1992; 57 FR 40861, September 8, 1992; 57 FR 57348, December 4, 1992). A reason for the difficulty and costliness of enforcing tow times is that such enforcement is time-consuming and requires a significant presence by law enforcement offices who must continually watch as a trawler deploys its nets, monitor its fishing activity throughout the timed tow, and finally witness retrieval of nets. When trawlers are far from land, fishermen can observe the presence of law enforcement patrol vessels and alter their tow times accordingly.

However, the North Carolina restricted area extends only 1 nm offshore, with most fishing activity taking place within 0.5 nm of shore. The proximity of the North Carolina restricted area to land, however, facilitates observations of the tow times by land-based enforcement observers. Because the presence of land-based enforcement observers is not as readily apparent as at-sea enforcement observers, fishermen will not be a able to circumvent the law. Further, the size of the restricted area is relatively small, being only 30 square nm, and the number of vessels historically participating in this fishery, about 40, further facilitates tow-time enforcement.

Therefore, NMFS proposes to amend 50 CFR 227.72(e)(3)(i) to allow permanent tow-time limitations in the North Carolina restricted area of 30 minutes from May 15 through August 14, each year; 55 minutes from April 1 through May 14, and August 16 through

October 31; and 75 minutes during March and November.

On July 29, 1992, NMFS promulgated an interim final rule (57 FR 33452) that allowed shrimpers to limit tow times rather than use TEDs through August 31, 1992. This allowance was extended to January 1, 1993, by consecutive 30-day notice actions and interim rules (57 FR 40859, September 8, 1992; 57 FR 45986, October 6, 1992; 57 FR 52735, November 5, 1992; 57 FR 57968, December 8, 1992). By separate actions this allowance was extended for 30 days on April 12, 1993 (58 FR 19631), and again on May 12, 1993, and is expected to be continued for the course of this rulemaking.

Enforcement Observations

In 1992, NMFS observers, and Federal and State enforcement officers indicated that the environmental conditions that had previously precluded TED use in the North Carolina restricted area remained essentially unchanged. NCDMF observed tows on July 26, 1992, and September 29, 1992, and verified the presence of large amounts of algae. Up to 15 vessels fished daily, but the average was three to four vessels. NMFS observers placed on vessels on September 10, September 28, and November 30, 1992, reported no turtles taken during 14 observed tows ranging from 18 to 47 minutes. In 1992, the State of North Carolina took regulatory action similar to the Federal action that allowed tow times as an alternative to TEDs in the North Carolina restricted area. Thus, Federal enforcement officials, enforcing the Federal action, and State enforcement officials, enforcing the State action and as witnesses for violations of the Federal action, conducted cooperative enforcement activities and reported that observed shrimpers complied with the Federal action. NCDMF conducted about 230 hours of enforcement effort from July 29, 1992, through December 9, 1992, directed specifically at monitoring compliance with tow times, and issued only one written warning for a violation of the State action. After December 9, 1992, NCDMF personnel not specifically assigned to trawler surveillance duties continued routine enforcement patrols along North Carolina beaches, including the beaches between Rich and Browns Inlets, but did not observe any trawling activity in the restricted area.

NMFS' continued review of the allowance of tow-time limits as an alternative to the use of TEDs in the North Carolina restricted area documented no associated sea turtle mortalities. Fishing activity in the restricted area was limited to five to eight vessels daily, and the State of North Carolina reported that observed shrimpers complied with the tow-time restrictions. The Assistant Administrator found that environmental conditions in the restricted area remained unchanged and issued an interim final rule (57 FR 40859, September 8, 1992) that extended the exemption through September 30, 1992. NMFS' continued review of the restricted area indicated that there were no associated sea turtle mortalities.

Strandings in the North Carolina Restricted Area

Sea Turtle stranding reports submitted after the December 8, 1992, notice action bring to five the total number of known strandings (all loggerheads) in the restricted area from August 1 through December 31, 1992. Strandings occurred on August 22 (2), September 10, September 12, and October 12, 1992. None of the strandings bore wounds or marks that indicated cause of death.

Stranding reports also document a total of two loggerhead turtles and one green turtle stranding in areas within 15 nm of Atlantic Ocean shoreline on either side of the restricted area between August 1 and December 31, 1992. All three of these strandings (November 2, November 5, and November 22) were north of the restricted area and bore no marks that indicated cause of death. The stranding reported for Atlantic beaches outside the restricted area were all on the north side of Bogue Inlet, approximately 8 miles (12.8 km) from the north end of the restricted area. NCDMF personnel suggest that some or all of the three strandings, which occurred on Bogue Banks near Bogue Inlet Pier, may have been caused by entanglement nets set by beach seiners working nearby, since several dolphins also stranded in the area around the same time. NMFS believes that any sea turtles potentially taken incidental to shrimp trawling operations in the restricted area would very likely strand within the restricted area, longshore current notwithstanding, because of the close proximity of trawling activity to shore (usually within 0.5 nm).

NMFS has concluded that because of the lack of observer-documented takes, the observed compliance with tow-time restrictions by shrimpers in the North Carolina restricted area, the daylight nature of the fishery, and the relatively few fishermen participating in this fishery, it is very unlikely that the strandings in or near the restricted are related to this allowance of the tow-time alternative.

In summary, NMFS' continuing review of the tow-time alternative in the North Carolina restricted area indicates no sea turtle mortalities to date associated with this program. Furthermore, NMFS has determined that environmental conditions characteristic of the restricted area render TED use impracticable throughout the traditional shrimp fishing months of March through November.

Sea Turtle Conservation Measures

This rule proposes to make the policies and procedures that have been in effect temporarily in the restricted area under the previous rules and notices effective for the approximate duration of the shrimping season, from March 1 through November 30, each year, with one change. That is, it proposes to provide additional protection for sea turtles in the restricted area by imposing a more restrictive tow-time limit during North Carolina's sea turtle nesting season (May 15 through August 15) than previously imposed.

Specifically, under this proposal, tow-times in the North Carolina restricted area would be limited to 30 minutes from May 15 through August 15, each year. Previously, the limit during this period was 55 minutes. A 30-minute tow-time limit during the sea turtle nesting season would provide additional protection for nesting females and attendant males that gather off nesting beaches in the restricted area. It would not impact fishermen's normal trawl times, since heavy algae concentrations characteristic of these warmer months cause fishermen to shorten their tow-times to approximately 15–30 minutes. As previously allowed, under the proposal, tow-times would be limited to 55 minutes from April 1 through May 14 and August 16 through October 31, each year; and during March and November, each year, they would be limited to 75 minutes. During January, February and December, there would be no tow-time alternative, and the TED requirement of 50 CFR 227.72(e)(2)(i) would apply.

Registration with the Director, Southeast Region, NMFS (Regional Director), would be required before a vessel could trawl in the restricted area, and vessels using the tow-time alternative would be required to carry a NMFS-approved observer if requested to do so by the Regional Director. The observer would monitor compliance with required conservation measures, including restricted tow-times, and resuscitation of any captured turtles in accordance with 50 CFR 227.72(e)(1)(i).

Data collected by observers could be used for enforcement.

NCDMF has informed NMFS that it will issue a Proclamation that mirrors this rule at the State level, thereby enabling North Carolina enforcement officers to enforce tow-time restrictions. Violations of tow-time restrictions documented by North Carolina enforcement officers may be turned over to NMFS Southeast Region, Office of the General Counsel, for prosecution under the ESA, or may be considered for prosecution under State law. NMFS and NCDMF will jointly monitor compliance with the tow-time alternative and continue to monitor the presence of algae in this area. This information would be used in the continued evaluation of the appropriateness of a TED exemption for this local fishery.

Pursuant to the provisions of 50 CFR 227.72(e)(3) and (e)(6), the Assistant Administrator may modify the required conservation measures through notification in the Federal Register, if necessary, to ensure adequate protection of endangered and threatened sea turtles. Under this procedure, the Assistant Administrator would imposed any necessary additional or more stringent measures, including more restrictive tow times, synchronized tow times, or termination of the tow-time alternative, if the Assistant Administrator determines that the concentration of algae no longer makes trawling with TEDs impracticable; that there is insufficient compliance with the required conservation measures; that compliance cannot be monitored effectively; that significant or unanticipated levels of lethal or non-lethal takings or strandings of sea turtles had occurred in or near the North Carolina restricted area; or that the incidental take level for the program is approaching, or has exceeded, the incidental take level established by the biological opinion for this rule issued as a result of consultation under section 7 of the ESA. That level is one lethal take of Kemp's ridley, green, hawksbill, or leatherback turtle; or two lethal takes of loggerhead turtles.

Classification

The Assistant Administrator has determined that this proposed rule is consistent with the ESA and other applicable law and is not a "major rule" requiring a regulatory impact analysis under E.O. 12291.

An initial regulatory flexibility analysis was prepared. Based on that analysis, the General Counsel of the Department of Commerce certified to the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities because it affects significantly less than 2 percent of the vessels participating in the shrimp industry in the South Atlantic and involves less than 5 percent of the total revenues of this industry.

The Assistant Administrator prepared an EA for this proposed rule that concludes that the rule would have no significant impact on the human environment. A copy of the EA is available (see ADDRESSES) and comments on it are requested.

In the December 1, 1992, final rule that implemented sea turtle conservation regulations, NMFS concluded that, to the maximum extent practicable, the regulations were consistent with the proposed coastal zone management program of North Carolina. Since this rule does not directly affect the coastal zone in a manner not already fully evaluated, a new consistency determination under the Coastal Zone Management Act is not required. Neither the ESA nor this rule precludes North Carolina from adopting more stringent sea turtle protection measures.

This proposed rule contains a collection-of-information requirement subject to the Paperwork Reduction Act, namely, registration to trawl in the North Carolina restricted area. This collection of information has been approved by the Office of Management and Budget (OMB) under OMB control number 0648–0267. The public reporting burden for this collection of information is estimated to average 7 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, may be sent to NMFS (see ADDRESSES) and to the Office of Information and Regulatory Affairs, OMB, Washington, DC 20503 (Attention: NOAA Desk Officer).

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

List of Subjects

50 CFR Part 217

Endangered and threatened species, Exports, Fish, Imports, Marine mammals, Transportation.

50 CFR Part 227

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

Dated: May 19, 1993.

Samuel W. McKeen,

Program Management Officer.

For the reasons set forth in the preamble, 50 CFR parts 217 and 227 are proposed to be amended as follows:

PART 217—GENERAL PROVISIONS

1. The authority citation for part 217 continues to read as follows:

Authority: 16 U.S.C. 1531–1544; and 16 U.S.C. 742a *et seq.*, unless otherwise noted.

2. In § 217.12, a new definition for "North Carolina restricted area" is added in alphabetical order to read as follows:

§ 217.12 Definitions.

* * * * *

North Carolina restricted area means that portion of the offshore waters bounded on the north by a line along 34°17.6′N. latitude (Rich Inlet, North Carolina) and 34°35.7′N. latitude (Browns Inlet, North Carolina) to a distance of 1 nautical mile seaward of the 72 COLREGS demarcation line (International Regulations for Preventing Collisions at Sea, 1972).

* * * * *

PART 227—THREATENED FISH AND WILDLIFE

3. The authority citation for part 227 continues to read as follows:

Authority: 16 U.S.C. 1531 *et seq.*

4. In § 227.72, paragraphs (e)(3)(i) and (e)(3)(ii) are revised to read as follows:

§ 227.72 Exceptions to the prohibitions.

* * * * *

(e) * * *

(3) * * * (i) *Duration of tows.* If tow-time restrictions are utilized pursuant to paragraphs (e)(2)(ii), (e)(3)(ii), or (e)(3)(iii) of this section, a shrimp trawler must limit tow times to no more than 55 minutes from April 1 through October 31, and to no more than 75 minutes from November 1 through March 31. A shrimp trawler in the North Carolina restricted area must limit tow times to no more than 30 minutes from May 15 through August 15. The tow-time is measured from the time that the trawl door enters the water until it is removed from the water. For a trawl that is not attached to a door, the tow-time is measured from the time the codend enters the water until it is removed from the water.

(ii) *Alternative—special environmental conditions.*—(A) The Assistant Administrator may allow compliance with tow-time restrictions, as an alternative to the TED requirement of paragraph (e)(2)(i) of this section, if he/she determines that the presence of algae, seaweed, debris or other special environmental conditions in a particular area makes trawling with TED-equipped nets impracticable.

(B) *North Carolina restricted area.* From March 1 through November 30, each year, a shrimp trawler in the North Carolina restricted area, as an alternative to complying with the TED requirement of paragraph (e)(2)(i) of this section, may comply with the tow-time restrictions set forth in paragraph (e)(3)(i) of this section. The owner or operator of a shrimp trawler, who wishes to operate his or her shrimp trawler in the North Carolina restricted area any time during the period from March 1 through November 30, must register pursuant to paragraph (e)(3)(v) of this section, with registration received by the Director, Southeast Region, NMFS, at least 24 hours before the first use of such tow times each year. Registration may be made by telephoning (813) 893–3136 or writing to 9450 Koger Boulevard, St. Petersburg, FL 33702. The owner or operator of a shrimp trawler in the North Carolina restricted area must carry onboard a NMFS-approved observer upon written notification by the Director, Southeast Region, NMFS.

Notification shall be made to the address specified for the vessel in either the NMFS or State fishing permit application, the registration or documentation papers, or otherwise served upon the owner or operator of the vessel. The owner or operator must comply with the terms and conditions specified in such written notification. All observers will report any violations of this section, or other applicable regulations and laws; such information may be used for enforcement purposes.

[FR Doc. 93–12289 Filed 5–24–93; 8:45 am]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 58, No. 99
Tuesday, May 25, 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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Public Meetings

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. No. 92–463), notice is hereby given of meetings of the Assembly of the Administrative Conference of the United States.

DATES: Thursday, June 10, 1993, 1 p.m.–5 p.m., and Friday, June 11, 1993, 9 a.m.–12 p.m.

LOCATION: Amphitheatre of the Office of Thrift Supervision, Second Floor, 1700 G Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Renee Barnow, Office of the Chairman, Administrative Conference of the United States, 2120 L Street NW., suite 500, Washington, DC 20037. Telephone: (202)254–7020.

SUPPLEMENTARY INFORMATION: The Assembly of the Administrative Conference of the United States, which makes recommendations to administrative agencies, to the President, Congress, and the Judicial Conference of the United States regarding the efficiency, adequacy, and fairness of the administrative procedures used by Federal agencies in carrying out their programs, will meet in Plenary Session to consider, not necessarily in the order stated, proposed recommendations on the following subjects:

1. Use of APA Formal Procedures in Civil Money Penalty Proceedings;
2. Administrative and Judicial Review of Prompt Corrective Action Decisions by the Federal Banking Regulators;
3. Improving the Environment for Agency Rulemaking;
4. Peer Review in the Award of Discretionary Grants; and
5. Right to Consult with Counsel in Agency Investigations

Plenary sessions are open to the public. Further information on the meeting, including copies of proposed recomendations, may be obtained from the Office of the Chairman, 2120 L Street, NW., suite 500, Washington, DC 20037, telephone (202) 254–7020.

Dated: May 18, 1993.

Jeffrey S. Lubbers,

Research Director.

[FR Doc. 93–12280 Filed 5–24–93; 8:45 am]

BILLING CODE 6110–01–W

DEPARTMENT OF AGRICULTURE

Forest Service

Southern Region; Exemption From Appeal of the Decision to Salvage Storm Damaged Timber on the Cheoah Ranger District, Nantahala National Forest, National Forests in North Carolina

AGENCY: Forest Service, USDA.

ACTION: Notice; exemption of decision from administrative appeal.

SUMMARY: Pursuant to 36 CFR 217.4(a)(11), the Regional Forester for the Southern Region has determined that good cause exists and notice is hereby given to exempt from administrative appeal the decision to salvage dead and dying trees from a portion of the area damaged by the February 21, 1993, tornado on the Cheoah Ranger District of the Nantahala National Forest and to rehabilitate damaged areas where this salvage will occur. High temperatures have created conditions suitable for the rapid spread of blue stain fungi in the dead trees. If not salvaged quickly, these trees will have substantially reduced value for wood products.

EFFECTIVE DATE: May 25, 1993.

FOR FURTHER INFORMATION CONTACT: Questions about this exemption should be directed to Jean P. Kruglewicz, Appeals and Litigation Group Leader, Southern Region, Forest Service-USDA, 1720 Peachtree Road NW., Atlanta, GA 30367 (404) 347–4867.

SUPPLEMENTARY INFORMATION: On February 21, 1993, a tornado damaged trees within an area covering about 400 acres on the Cheoah Ranger District of the Nantahala National Forest, Graham County, North Carolina. Damage varies within the 400 acre area; trees on about 230 acres were almost completely blown over while varying proportions of the trees were blown over on the remainder of the area. The area to which this decision and exemption applies are in compartments 13 and 15 in the drainages of Deep Creek, Laurel Branch, and Rough Branch and are composed of about 170 acres more or less.

The timber stands severely affected by this tornado need restoration, through salvage of the merchantable trees killed or heavily damaged, and rehabilitation, through site preparation and prompt reforestation. High temperatures characteristic of North Carolina spring/summer weather create conditions conducive to the rapid spread of blue stain fungi and secondary insects in recently killed timber. Blue stain fungi usually begins to infect trees in the latter part of April, and within two months will spread to such an extent as to substantially reduce the trees value as sawtimber. Additional deterioration such as checking or cracking will, within three to four months, greatly diminish their value for pulpwood.

Following salvage of the damaged trees, these areas will need to be reforested. The sites will be prepared for natural regeneration and supplemented in some areas by planting. Any delay will make it progressively more difficult to accomplish.

An analysis is currently underway on a proposed action to salvage dead or heavily damaged trees and to rehabilitate the damaged stands. The analysis includes the methods of harvest, site preparation, and reforestation. The environmental document and biological evaluation being prepared will disclose the effects of the proposed action on the environment, document public involvement, and address the issues raised by the public. Given the present condition of the damaged timber and the high temperatures prevailing in the area, the need for action is critical. Any delay will result in these trees having substantially reduced value for wood products and will make subsequent rehabilitation efforts more difficult.

Dated: May 19, 1993.

R.B. Erickson,

Deputy Regional Forester.

[FR Doc. 93–12290 Filed 5–24–93; 8:45 am]

BILLING CODE 3410–11–M

Rural Electrification Administration

Joe Wheeler Electric Membership Corporation; Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA) has made a finding of no significant impact (FONSI) with respect to the potential environmental impacts resulting from a proposal by Joe Wheeler Electric Membership Corporation to construct an office and warehouse in Trinity, Alabama. The FONSI is based on an environmental assessment prepared by REA.

FOR FURTHER INFORMATION CONTACT: Lawrence R. Wolfe, Chief, Environmental Compliance Branch, Electric Staff Division, REA, South Agriculture Building, Washington, DC 20250, telephone (202) 720–1784.

SUPPLEMENTARY INFORMATION: The site for this project is located approximately 6 miles west of the city of Decatur at the southwest corner of Alabama Highway 24 and County Road 358 in Trinity, Alabama. The total area of the property is approximately 20 acres. The total warehouse and office will total 52,200 square feet, with 45,043 square feet for the warehouse and 7,157 square feet for rooms that will be used for dispatching, a future supervisory control and data acquisition system, operations offices, crew rooms and meeting rooms for operations personnel. All construction materials and construction equipment will be stored within the building.

A separate office building will house accounting personnel, the General Manager, Human Resources Manager, Manager of Community and Customer Relations, Communications Director, the Engineering Department, a board and meeting room, and other staff personnel. It will have 13,115 square foot of space.

The proposed office and warehouse facility will have approximately 160 parking spaces for employees and visitors and ingress and egress drives. The building's front drive from Highway 24 will be installed at the existing median cut and a back drive will extend to the gravel road on the eastern property line.

Alternatives considered to the project as proposed were no action and alternative site locations. REA has considered these alternatives and has concluded that no action is not a preferred alternative due to the demonstrated need for construction. The Highway 24 and County Road 358 site was chosen over the alternative site locations to be the preferred alternative due to its availability.

Copies of the environmental assessment and FONSI are available for review at, or can be obtained from, REA at the aforementioned address or Mr. S.K. Chauhan, Joe Wheeler Electric Membership Corporation, 25354 Alabama Highway 24, Trinity, Alabama 35673, telephone (205) 351–6517.

Dated: May 18, 1993.

James B. Huff, Sr.,

Administrator.

[FR Doc 93–12356 Filed 5–24–93; 8:45 am]

BILLING CODE 3410–15–F

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Michigan Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Michigan Advisory Committee to the Commission will be held from 9 a.m. until 5 p.m. on Thursday, June 17, 1993, at the Omni International Hotel, 333 East Jefferson Avenue, Detroit, Michigan. The purpose of the meeting is to discuss current issues, orient members, and plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Dr. Janice G. Frazier, 313–259–8180, or Constance M. Davis, Director of the Midwestern Regional Office, 312–353–8311 (TDD 312–353–8326). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, May 17, 1993.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 93–12266 Filed 5–24–93; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of Economic Analysis

Title: Annual Survey of U.S. Direct Investment Abroad

Form Number: Agency—BE–11; OMB—0608–0053

Type of Request: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection

Burden: 1,400 respondents; 105,300 reporting hours

Average Hours per Response: 75 hours

Needs and Uses: The survey collects sample data on the financial structure and operations of nonbank U.S. parent companies and their nonbank foreign affiliates, with emphasis on the affiliate data and on services. Universe estimates are developed from the reported sample data. The data are needed to measure the economic significance of U.S. direct investment abroad, monitor changes in such investment, analyze its effect on the U.S. and foreign economies, and based upon this assessment, make informed policy decisions regarding U.S. direct investment abroad. They are also needed to support U.S. negotiations with foreign countries on international investment and trade in services.

Affected Public: Business or other for-profit institutions

Frequency: Annually

Respondent's Obligation: Mandatory

OMB Desk Officer: Paul Bugg, 395–3093.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 482–3271, Department of Commerce, room H5310, 14th Street and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Paul Bugg, OMB Desk Officer, room 3228, New Executive Office Building, Washington, DC 20503.

Dated: May 19, 1993.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 93–12257 Filed 5–24–93; 8:45 am]

BILLING CODE 3510–CW–M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for

collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: International Trade Administration.

Title: Certified Trade Missions: Application for Status.

Form Numbers: Agency—ITA–4127P, OMB—0625–

Type of Request: New Collection.

Burden: 60 respondents; 60 reporting hours

Average Hours per Response: 1 hour

Needs and Uses: The International Trade Administration's U.S. and Foreign Commercial Service (US&FCS) offers trade mission guidance and assistance to federal, state and local development agencies, chambers of commerce, industry trade associations, other export-oriented groups. These trade missions open doors to government and business leaders in promising export markets around the world. The Application for Status is a questionnaire that is prepared and signed by an organizer to begin the certification process after reading and agreeing to abide by the terms of Conditions of Participation applicable to the Certified Trade Mission program. Upon approval of the Application for Status, the organizer enters into a binding Participation Agreement (Form ITA–4008P; OMB No. 0625–0147) with the agency. To apply for U.S. Department of Commerce sponsorship, the trade mission organizer must have, as a primary objective, the promotion of U.S.-produced goods and services and/or the establishment of marketing representation abroad.

Affected Public: State of local governments; Businesses or other for-profit; Federal agencies or employees; Non-profit institutions; and Small businesses or organizations

Frequency: On occasion

Respondent's Obligations: Required to obtain or retain a benefit

OMB Desk Officer: Gary Waxman, (202) 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 482–3271, Department of Commerce, room 5327, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Gary Waxman, OMB Desk Officer, Room 3208 New Executive Office Building, Washington, DC 20503.

Dated: May 19, 1993.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 93–12258 Filed 5–24–93; 8:45 am]

BILLING CODE 3510–CW–M

Bureau of Export Administration

Sensors Technical Advisory Committee; Closed Meeting

A meeting of the Sensors Technical Advisory Committee will be held June 17, 1993, 9 a.m., in the Herbert C. Hoover Building, Room 1617M(2), 14th Street & Pennsylvania Avenue NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions that affect the level of export controls applicable to sensors and related equipment and technology.

The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on February 5, 1992, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C., 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, room 6020, U.S. Department of Commerce, Washington, DC 20230. For further information, contact Lee Ann Carpenter on (202) 482–2583.

Dated: May 18, 1993.

Betty Anne Ferrell,

Director, Technical Advisory Committee Staff.

[FR Doc. 93–12259 Filed 5–24–93; 8:45 am]

BILLING CODE 3510–DT–M

Economic Development Administration

Petitions by Producing Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration (EDA), DOC.

ACTION: To give firms an opportunity to comment.

Petitions have been accepted for filing on the dates indicated from the firms listed below.

Firm name	Address	Date petition accepted	Product
G&G Uniform Co., Inc	2113–2117 Oliver Street, Baltimore, MD 21213.	03/15/93	Apparel—girl and boy scout uniforms, American Red Cross Uniforms and others.
Dorris Company, Inc	8610 Page Avenue, St. Louis, MO 63114	04/17/93	Shaft mounted screw conveyor and base mounted fixed ratio speed changers.
Control Signal Corp	1985 S. Depew Street, #7, Denver, CO 80227.	04/19/93	Machine and equipment—ANI automatic number identification systems and Morse Code station identifiers.
Bo-Mar Manufacturing Co., Inc.	18 Pocasset St., Fall River, MA 02722	04/19/93	Apparel— women's sport jackets made mostly from cotton, polyester blends, linen, wool knits.
Ren Corporation	5900 S. U.S. 177, Stillwater, OK 74074	04/21/93	Automatic process control instrument systems.
Siltec Corporation	1351 Tandem Ave., N.E., Box 7748, Salem, OR 97303–0139.	04/23/93	Raw polished silicon crystal wafers and epitaxial wafers.
RCR Screw Machine Products, Inc.	5305 Iroquois Avenue, Erie, PA 16511	05/03/93	Industrial fasteners.
A.S. Haight & Company	801 West Avenue, Cartersville, GA 30120.	05/04/93	Screen and roller printing on knit and woven fabric.
Electronic Hardware Corporation.	320 Broad Hollow Road, Farmingdale, NY 11735.	05/04/93	Control knobs and panel hardware.

Firm name	Address	Date petition accepted	Product
L&L Machine Tool, Inc	100 Quality Way, P.O. Box 75, Grand Blanc, MI 48439.	05/04/93	Special machinery to load, clamp, position, drill, mill and remove metal for automotive industry.
Insulectro	20362 Windrow Drive, Lake Forest, CA 92630.	05/07/93	Laminate products (rigid, multilayer, prepreg).
Joseph Oat Corporation	2500 Broadway, Camden, NJ 08104	05/07/93	Refinery and petrochemical plant equipment including heat exchangers and pressure vessels.
Electro Optics Manufacturing, Inc.	4459 Thirteenth Street, Wyandotte, MI 48192.	05/07/93	Fiber optic, sprinkler system parts, electrical terminals and connectors and computer ship covers.
Egging Co., Inc. (the)	HC65, Box 44, Gurley, NE 69141	05/10/93	Agriculture and construction vehicle parts.
Sivyer Steel Corporation	225 South 33rd Street, Bettendorf, IA 52722.	05/10/93	Parts of earthmoving equipment, automobile shredding equipment, etc.
Milam Petroleum Company	115 East Travis, #1133, San Antonio, TX 78205.	05/10/93	Hydrocarbons (crude oil and natural gas).
B.R. Industries, Inc	1442 N. Memorial Drive, Racine, WI 53404.	05/11/93	Suspension and axle bracketry, undercarriage support and bolsters, drive sprockets.
Wire Rope Corporation of America, Inc.	609 N. 2nd Street, St. Joseph, MO 64501.	05/11/93	Wire rope.
Strack Plastics, Inc	10976 Maple Road, Lafayette, CO 80026	05/12/93	Plastic line blocks for use in brick laying.
ILC Data Device Corporation.	105 Wilbur Place, Bohemia, NY 11716	05/13/93	Data bus-hybrid microelectronic devices.
Draco Spring Manufacturing Co., Inc.	7042 Long Drive/PO Box 266086, Houston, TX 77087.	05/14/93	Helical springs.

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (19 U.S.C. 2341). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Trade Adjustment Assistance Division, room 7023, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: May 18, 1993.

David L. McIlwain,

Acting Deputy Assistant Secretary for Program Operations.

[FR Doc. 93–12306 Filed 5–24–93; 8:45 am]

BILLING CODE 3510–24–M

International Trade Administration

[A–475–810]

Preliminary Determination: Antidumping Duty Investigation of Pads for Woodwind Instrument Keys From Italy Manufactured by Music Center s.n.c. di Luciano Pisoni and Lucien s.n.c. di Danilo Pisoni & C.

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

EFFECTIVE DATE: May 25, 1993.

FOR FURTHER INFORMATION CONTACT: John Gloninger, Office of Antidumping Investigations, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–2778.

Preliminary Determination

We preliminarily determine that pads for woodwind instrument keys manufactured by Music Center s.n.c. di Luciano Pisoni (Pisoni) and Lucien s.n.c. di Danilo Pisoni & C. (Lucien) from Italy are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated margin is shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the initiation of this case on November 10, 1992 (57 FR 54220, November 17, 1992), the following events have occurred. On December 7, 1992, the International Trade Commission (ITC) issued an affirmative preliminary determination.

On December 10, 1992, the Department sent its antidumping questionnaire to Pisoni.

On December 21, 1992, Pisoni requested an extension until January 1, 1993, to respond to Sections A, B, and C of the Department's questionnaire. On December 29, 1992, the Department granted the request. Then on January 5, 1993, Pisoni requested another extension until January 31 and February 18, 1993 for Section A and Sections B and C, respectively. Before we responded to this request, on January 6, 1993, Pisoni submitted another extension request until February 1, 1993. On January 8, 1993, we granted this second request.

On January 14, 1993, petitioner submitted comments on Appendix V of the Department's questionnaire.

On January 21, 1993, we informed Pisoni that it must submit its sales information on computer tape because the aggregate number of sales transactions were too large to manage on computer disk.

On January 22, 1993, Pisoni requested an additional extension of time until February 8, 1993 to respond to the questionnaire. On January 26, 1993, we denied this request. Then, on January 27, 1993, we granted a one-day extension to Pisoni until February 2, 1993, for submission of its computer tapes. On February 1, 1993, Pisoni requested another one-day extension of time to submit its narrative responses to the Department's questionnaire. This was also granted to Pisoni. On February 2, 1993, Pisoni advised the Department that it would file its responses shortly after 5:00 p.m. on that day.

On February 4, 1993, petitioner requested that the Department reject the questionnaire responses of Pisoni since they were untimely and unresponsive to the Department's instructions. Then, on February 16, 1993, petitioner submitted comments on the questionnaire responses by Pisoni.

On February 18, 1993, the Department sent a deficiency letter to Pisoni for Sections A, B and C of its questionnaire response.

On February 22, 1993, Pisoni requested the disqualification of a member of petitioner's counsel based on his prior involvement as a government attorney for the ITC in the initial investigation of Pisoni in 1983. On March 3, 1993, petitioner requested that the Department deny Pisoni's request.

On March 4, 1993, Pisoni submitted its response to the Department's deficiency questionnaire of February 18, 1993.

On March 5, 1993, petitioner requested that the preliminary determination be extended until April 13, 1993.

On March 11, 1993, we requested additional information on Pisoni's third country sales. On March 17, 1993, Pisoni submitted this information.

On March 17, 1993, the Department informed Pisoni that the Department would not disqualify a member of petitioner's counsel.

On March 18, 1993, the Department postponed the preliminary determination until April 13, 1993 (58 FR 14558).

Also on March 18, 1993, petitioner submitted comments on the responses by Pisoni to the Department's deficiency letter.

On March 24, 1993, the Department postponed the date of this preliminary determination to May 19, 1993, due to extraordinary circumstances (58 FR 17382, April 2, 1993). On March 25, 1993, petitioner objected to this postponement on the grounds that Pisoni was not cooperating in this investigation.

Also on March 25, 1993, the Department sent a second deficiency letter to Pisoni.

On April 6, 1993, Pisoni requested expedited confirmation that it may report the date of sale as the date of invoice, and report third country market sales to Taiwan and not Japan. In response to these requests, we responded on April 8, 1993, that we would not confirm that Pisoni may continue to report the the date of invoice as the date of sale. We stated that the point at which price and quantity are fixed is the appropriate date of sale. We also stated that Pisoni must report third country sales to Japan and Taiwan.

On April 22, 1993, petitioner submitted comments on this request by Pisoni.

Also on April 22, 1993, Pisoni requested a one-day extension to respond to the Department's March 25 deficiency letter.

Pisoni submitted its response on April 23, 1993. On April 29, 1993, Pisoni submitted further comments in response to petitioner's letter of April 22, 1993.

The Respondents

Based on the information submitted on the record by Pisoni, we preliminarily determine that the related companies, Pisoni and Lucien should be collapsed for purposes of this investigation. Therefore, sales made by Lucien are subject to this investigation and not under the "all other" category of the existing order covering the subject merchandise. Lucien was established in 1989 by Luciano Pisoni, who at that time was the sole owner of Pisoni. Since that time, Pisoni has owned 50 percent of Lucien. Luciano Pisoni's son also owns 50 percent of Lucien. Luciano Pisoni is the legal representative with rights of signature of Lucien, and may make any kind of business decision with regard to the operation of Lucien. Both companies share machinery and manufacturing sites, and Pisoni is involved in the marketing of pads on behalf of Lucien. The sales forces of Lucien and Pisoni work jointly, and in many instances involve the same employees. Furthermore, the prices quoted by Lucien and Pisoni are the same, and Luciano Pisoni confirms the final invoice for Lucien. Therefore, we determine that Pisoni's exclusion from the current AD order also applies to Lucien, and that Lucien is subject to this investigation. (See Pads for Woodwind Instrument Keys from Italy: Antidumping Duty Order, 49 FR 37137, September 21, 1984).

Scope of Investigation

The products covered by this investigation are pads for woodwind instrument keys (pads), which are manufactured by Pisoni and Lucien (collectively, "Pisoni").

Pads for woodwind instrument keys covered by the scope of this investigation are currently classifiable under the following subheadings of the Harmonized Tariff Schedule of the United States (HTSUS): 9209.99.4040 and 9209.99.4080. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation is April 1, 1992, through September 30, 1992.

Such or Similar Comparisons

We have determined for purposes of the preliminary determination that the products covered by this investigation comprise a single category of "such or similar" merchandise. Where there were no sales of identical merchandise in the third country to compare to U.S. sales, we made similar merchandise comparisons on the basis of: diameter, type of material, pad variety, type of core, type of disk, and thickness, as listed in appendix V of the Department's antidumping questionnaire. We compared sets of pads sold in the U.S. market to sets of pads sold in the third country market, and compared individual pads to individual pads. We made adjustments, where appropriate, 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 pads from Italy 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.

Date of Sale

For purposes of the preliminary determination, we have accepted Pisoni's claim that the proper date of sale for the reporting of its sales during the POI is the date of the invoice, as this appears to be the date when the basic terms of sale, namely price and quantity, are fixed between Pisoni and its customers. Pisoni claims that any documents it receives from customers which list quantities and other sales information prior to the date of invoice are subject to change or modification up to the date of invoicing. An analysis of the invoices and purchase orders submitted by Pisoni in this investigation indicates that, in many cases, the basic terms of sale did change subsequent to the order date. Pisoni further claims that for most sales to the United States, and for all sales to third country markets, such as Taiwan, invoices are the only sales documentation in existence. Accordingly, we have accepted preliminarily Pisoni's date of sale methodology and will verify the accuracy and reasonableness of its claim.

United States Price

We based all USP on purchase price, in accordance with section 772(b) of the Act, because the subject merchandise was sold to unrelated purchasers in the United States prior to importation and because exporter's sales price methodology was not otherwise indicated.

We calculated purchase price based on f.o.b sales to unrelated customers. We made one addition to USP for payments Pisoni received from its distributor in the U.S. market for exchange rate fluctuations. We recalculated this adjustment based on the terms specified in the price protection agreement between Pisoni and its distributor. We made no adjustment for reported quantity discounts because the prices reported were already net of discounts. Also, we did not deduct reported expenses for air freight charges because the prices Pisoni reported were ex-factory prices which did not include any expenses associated with air freight.

Finally, we did not make a circumstance of sale adjustment for reported direct selling expenses because the expenses were not properly supported on the record, and it is not clear who incurs these reported expenses. Also, it is unclear how Pisoni derived the percentage factor it applied to USP to calculate these reported expenses. In two deficiency letters, we requested that Pisoni submit documents showing how this adjustment was calculated, but Pisoni did not do so. Pisoni's narrative description only states that its direct selling expenses for products sold in the U.S. market are less than its expenses for products sold in the home market, and therefore, we should adjust upward the U.S. price by the amount of this difference. However, Pisoni did not provide any information with respect to selling expenses incurred for products sold in third countries. Since we are using Taiwan as a basis for FMV and the reported expenses are not properly supported on the record, we have not made a circumstance of sale adjustment for reported direct selling expenses.

Foreign Market Value

In order to determine whether there were sufficient sales of pads in the home market to serve as a viable basis for calculating FMV, we compared the volume of home market sales of pads to the volume of third country sales of the same product, in accordance with section 773(a)(1)(B) of the Act. In making this determination, we disregarded sales of pads from Lucien to Pisoni. According to Pisoni, it was purchasing the product in a wholesaler capacity when it purchased pads from Lucien, and the pads were intended for home market consumption. However, Pisoni did not identify which home market sales it reported were first purchased from Lucien. Therefore, without this information, we cannot determine whether inclusion of the sales from Lucien to Pisoni would constitute any double counting of home market sales. When these sales to Pisoni are removed from the home market database, Pisoni's home market is not viable during the POI. Therefore, in accordance with 19 CFR 353.49(b), we have chosen sales to Taiwan as a basis for FMV. We selected Taiwan because exports to Taiwan consist of sales of the most similar merchandise and in the largest quantities, and the market in Taiwan is most like the United States market.

We calculated FMV based on f.o.b. and c&f prices to unrelated customers in Taiwan. Where possible, we compared U.S. sales to third country sales of similar and identical merchandise made at the same level of trade, in accordance with 19 CFR 353.58. We made deductions, where appropriate, for freight expenses incurred on c&f sales. We made no adjustment for reported quantity discounts because the prices reported were already net of discounts.

Pursuant to 19 CFR 353.56, we made circumstance-of-sale adjustments, where appropriate, for differences in credit expenses. Since we are collapsing Pisoni and Lucien into one entity for purposes of this investigation, we have recalculated credit expenses using the average interest rate for Pisoni and Lucien. We also made an adjustment for physical differences in merchandise, where appropriate, in accordance with 19 CFR 353.57.

Currency Conversion

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

Verification

As provided in section 776(b) of the Act, we will verify the information used in making our final determination.

Critical Circumstances

Petitioner alleges that "critical circumstances" exist, within the meaning of section 733(e) of the Act, with respect to imports of pads from Italy. Section 733(e)(1) of the Act provides that critical circumstances exist if we determine that there is a reasonable basis to believe or suspect that:

(A) (i) There is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation, or

(ii) The person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value, and

(B) There have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

Since there is currently an antidumping duty order in effect with respect to imports of pads from Italy (other than those from Lucien and Pisoni), we find that there is a history of dumping in the United States of merchandise which is the subject of this investigation.

However, based on our analysis of the shipment data submitted by Pisoni, we preliminarily determine that massive imports do not exist. As stated in 19 CFR 363.16, we consider imports to be massive if there has been an increase of 15 percent or more over a relatively short period of time. A comparison of Pisoni's shipments from June 1992 through October 1992 and those from November 1992 through March 1993, indicate that imports have increased by less than 15 percent. As such, we preliminarily determine that critical circumstances do not exist for Pisoni.

Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, we are directing the Customs Service to suspend liquidation of all entries of pads from Italy from Pisoni and Lucien, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the Federal Register. There is no "All Other" rate in this investigation since the Department limited this investigation to Pisoni and an antidumping duty order currently exists with respect to exports of pads from all other companies in Italy. (See *Pads for Woodwind Instrument Keys from Italy: Antidumping Duty Order*, 49 FR 37137, September 21, 1984). This suspension of liquidation and the estimated margin shown below apply only to Pisoni and Lucien.

For previously reviewed or investigated companies, other than Pisoni and Lucien, the cash deposit rate will continue to be the company-specific rate published for the most recent review period. (See *Pads for Woodwind Instrument Keys from Italy: Final Results of Antidumping Duty*

Administrative Review, 57 FR 48202, October 22, 1992). For unreviewed or non-investigated companies, the cash deposit rate will continue to be the all other rate published in this review period, (57 FR 48202, October 22, 1992).

For Pisoni and Lucien, therefore, the Customs Service shall require a cash deposit or posting of a bond equal to the estimated preliminary dumping margin, as shown below. The suspension of liquidation will remain in effect until further notice. The weighted-average dumping margin for Pisoni and Lucien is 1.26 percent.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination.

If our final determination is affirmative, the ITC will determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry before the later of 120 days after the date of this preliminary determination or 45 days after our final determination.

Public Comment

In accordance with 19 CFR 353.38, case briefs or other written comments in at least ten copies may be submitted by any interested party to the Assistant Secretary for Import Administration no later than June 30, 1993, and rebuttal briefs no later than July 7, 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. Tentatively, the hearing will be held on July 12, 1993, at 10 a.m. at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue NW., Washington, D.C. 20230. Parties should confirm the time, date, and place of the hearing 48 hours before the scheduled time.

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

This determination is published pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)) and 19 CFR 353.15.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–12361 Filed 5–24–93; 8:45 am]

BILLING CODE 3510–DS–P

[A–588–807]

Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured, From Japan; Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On November 12, 1991, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order on industrial belts and components thereof, whether cured or uncured (industrial belts), from Japan. This review involves the sales of three manufacturers/exporters of this merchandise in the United States during the period June 7, 1989 through May 31, 1990.

The Department gave interested parties the opportunity to comment on its preliminary results. Based upon the analysis of the comments which were received, the Department has changed the margins from those presented in the preliminary results.

EFFECTIVE DATE: May 25, 1993.

FOR FURTHER INFORMATION CONTACT: Charles Vannatta in the Office of Antidumping Compliance; International Trade Administration; U.S. Department of Commerce; Washington, DC 20230; telephone number (202) 482–5253.

SUPPLEMENTARY INFORMATION:

Background

On November 12, 1991, the Department published in the Federal Register (56 FR 57513) the preliminary results of its administrative review of the antidumping duty order on industrial belts from Japan (June 14, 1989, 54 FR 25314, amended August 4, 1989, 54 FR 32104). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of the Review

Imports covered by the review are shipments of industrial belts and components and parts thereof, whether cured or uncured, from Japan. These products include V-belts, synchronous belts, and other industrial belts, in part or wholly of rubber or plastic, and containing textile fiber (including glass fiber) or steel wire, cord or strand, and whether in endless (*i.e.*, closed loops) belts, or in belting in lengths or links. This review excludes conveyor belts and automotive belts, as well as front engine drive belts found on equipment powered by internal combustion engines, including trucks, tractors, buses, and lift trucks.

During the period of review, the merchandise was classifiable under Harmonized Tariff Schedule (HTS) subheadings 3926.90.55, 3926.90.56, 3926.90.57, 3926.90.59, 3926.90.60, 4010.10.10, 4010.10.50, 4010.91.11, 4010.91.15, 4010.91.19, 4010.91.50, 4010.99.11, 4010.99.15, 4010.99.19, 4010.99.50, 5910.00.10, 5910.00.90, and 7326.20.00. The HTS subheadings are provided for convenience and Customs purposes. The written description remains dispositive.

In the preliminary results, the period of this administrative review was established as February 1, 1989 through May 31, 1990 (*Initiation of Antidumping Duty Administrative Reviews*, 55 FR 30490, July 26, 1990). However, on March 5, 1992, the Court of International Trade (CIT) in the case *MBL (USA) Corp. and Mitsuboshi Belting Ltd.* v. *United States*, 787 F. Supp. 202, held in accordance with Section 736(b)(2) of the Tariff Act that cash deposits should not have been collected before the date of publication of the ITC's final determination in the Federal Register (*Investigation Nos. 731–TA–412 through 419 (Final Determination)*, 54 FR 24430, June 7, 1989). Therefore, in accordance with the decision of the CIT, the period of review for the final results is June 7, 1989 through May 31, 1990 (*Court of International Trade Decision*, February 2, 1993, 58 FR 6777).

For the final results, this review covers sales and entries made during the period of review from three Japanese manufacturers and exporters of industrial belts to the United States: Bando Chemical Industries, Ltd. (Bando), Mitsuboshi Belting Limited (MBL), and Nitta Industries (Nitta).

Analysis of the Comments Received

The Department gave interested parties the opportunity to comment on the preliminary results of this

administrative review. Case and rebuttal briefs were received from the petitioner, the Gates Rubber Company (Gates), and from MBL. The Department did not receive a request for a hearing.

Comment 1: MBL contends that the Department incorrectly compared U.S. sales of G2/G3 grade, classical, wrapped V-belts with home market sales of Red grade, classical, wrapped V-belts when there were no sales of identical or similar G2/G3, classical, wrapped V-belts in the home market. MBL cites three reasons why the Standard grade of classical, wrapped V-belts are more similar to the G2/G3 grade products sold in the United States, and should be used in comparison with the U.S. sales. First, the G2/G3 and Standard grades of classical, wrapped V-belts share more common material components. Second, MBL maintains that the "cost of manufacture" is more similar between the G2/G3 and Standard grades than between the G2/G3 and Red grades. MBL adds that the higher cost of manufacture of the G2/G3 grades is a reflection of smaller production quantities. Third, the reason for the better performance of the G2/G3 grades over the Standard grades is the result of MBL's manufacturing process and not the result of different physical characteristics of the belt's components. MBL concludes, therefore, that the home market Standard grade is more similar to the G2/G3 grades of classical, wrapped V-belts sold in the United States and should be used instead of the home market Red grade, classical, wrapped V-belts in the Department's final results.

Department's position: Section 771(16)(B) of the Tariff Act states the primary definition of similar merchandise as "[m]erchandise (i) produced in the same country and by the same person as the merchandise which is the subject of the investigation, (ii) like that merchandise in component material or materials and in the purposes for which used, and (iii) approximately equal in commercial value to that merchandise." As for the specific models at issue, both the Standard and Red grades of classical wrapped V-belts were produced in the same country and by the same person as the G2/G3 grade, classical wrapped V-belts which were sold in the United States. From MBL's description of the components of classical, wrapped V-belts, as submitted in its response to the supplemental questionnaire, the Department finds that the number of similarities/dissimilarities of the components of the G2/G3 grade belts sold in the United States with the home market Standard grade belts and with the home market Red grade belts are equal.

However, the "purposes for which used" and the commercial value of the Red grade, classical, wrapped V-belts sold in the home market are more similar to the G2/G3 grades of belts sold in the United States than those of the Standard grade belts sold in the home market. These two factors depend upon each belt's applicability in the U.S. market, which is a function of each belt's ability to transmit power under different operating circumstances. These qualities have been incorporated into U.S. industry standards concerning power transmission belting, as established by the Rubber Manufacturers Association (RMA). In the supplemental questionnaire, the Department requested that MBL identify the industry standards, if any, which each of its U.S. and home market models meets. MBL responded in its narrative and merchandise description data file that the Standard, Red, and G2/G3 grades were "similar" to RMA standards without a further definition of the term "similar." The petitioner submitted information which states and substantiates that MBL's Red grade and G2/G3 grades of classical, wrapped V-belts meet or exceed RMA standards, whereas MBL's Standard grade does not meet these same industry standards. Therefore, as concerns the "purposes for which used" and the commercial value in the U.S. market, MBL's Red grade, not the Standard grade, of classical, wrapped V-belts is more similar to MBL's G2/G3 grades of belts sold in the United States.

MBL's assertion that the cost of manufacturing of the Standard grade belts is closer to the cost of manufacturing of the G2/G3 grade belts than that of the Red grade belts is inconsistent with the information which MBL submitted in its response to the supplemental questionnaire. In addition, MBL's claim that any superior performance of the G2/G3 grade belts over the Standard grade belts is attributable to manufacturing technology and not physical differences may be true, but it still does not make the Standard grade belts more similar than the Red grade belts as far as "purpose for which used" or for commercial value, as required by the Tariff Act.

Therefore, in accordance with the Tariff Act and the information submitted during this administrative review by MBL and the petitioner, the Department maintains that the Red grade of classical, wrapped V-belts represents the most similar home market merchandise to the G2/G3 grades of classical, wrapped V-belts which were sold in the United States.

Comment 2: MBL contends that the Department should accept MBL's June 10, 1991 submission of purchase price sales data, which the Department rejected as having been untimely submitted, and that the Department use that information rather than the best information otherwise available in its analysis of the purchase price transactions during the period of review. MBL states that its request for an extension of the submission deadline was within reason, and that, even with the deadline extension, interested parties would still have been provided with ample time to comment on the submission before the preliminary results were published on November 12, 1991. MBL asserts that the response to the supplemental questionnaire essentially amounted to a complete resubmission of the response to the questionnaire, which would have been unnecessary if the Department had adopted MBL's recommended approach to conducting the review. Therefore, MBL claims that it should have been permitted 60 days from the date of receipt of the supplemental questionnaire to complete this resubmission, which would have made the deadline June 11, 1991, one day after MBL's June 10th submission of the purchase price sales information.

Department's position: Section 777(e) of the Tariff Act states that "[i]nformation shall be submitted to the administering authority * * * during the course of a proceeding on a timely basis * * *" The Department's regulations state that, with "the Secretary's written request to an interested party for a response to a questionnaire or for other factual information, the Secretary will specify the time limit for response[,]" and that the "Secretary will return to the submitter, with written notice stating the reasons for return of the document, any untimely or unsolicited questionnaire responses" (19 CFR 353.31(b)(2)). In addition, the Department's regulations state that "[o]rdinarily, the Secretary will not extend the time limit stated in the questionnaire" (19 CFR 353.31(b)93)), and that, unless some provisions have been made adjusting the submission deadline, "questionnaire responses in administrative reviews must be submitted not later than 60 days after the date of receipt of the questionnaire" (19 CFR 353.31(b)(4)). For the original questionnaire, the Department allowed MBL 63 days, including one extension, to submit its response, and subsequently the Department accepted a

supplemental narrative response and complete resubmission of MBL's sales computer tapes 54 days later on December 5, 1990. These two responses to the questionnaire were greatly deficient, and the Department presented MBL on April 12, 1991 with a 32-page supplemental questionnaire which was due within 21 days. Recognizing the amount of information requested in the supplemental questionnaire, the Department, at MBL's request, extended the submission deadline twice, which allowed MBL an additional 28 days to respond. These two extensions thus delayed the submission deadline until May 31, 1991, the deadline which BL had asked for in its first extension request. The Department, however, denied MBL's third request for an extension, which was submitted on the submission deadline of May 31, 1991, because MBL had already been allowed an extraordinary amount of time, a total of 112 days, to respond to the Department's questionnaires.

The Department maintains that its decision to reject MBL's untimely submission of its purchase price sales data was justified due to the Department's heretofore extraordinary flexibility in granting submission deadline extensions beyond the 60 days stated in the Department's regulations, and the Department has applied the best information otherwise available to MBL's purchase price transactions for the final results of this administrative review. As best information available, the Department has applied 93.16 percent, as published in the final determination of sales at less than fair value (*Final Determination of Sales of Less Than Fair Value: Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured, from Japan*, 54 FR 15485, 15487, April 18, 1989).

Comment 3: The petitioner contends that the final results concerning MBL's exporter's sales price (ESP) transactions should be based upon the best information otherwise available rather than on MBL's unverified data. (See comment 2 for a discussion of the Department's treatment of MBL's purchase price transactions.) The petitioner states that the Department, in accordance with section 776(b) of the Tariff Act, must verify all information relied upon for the final results of an administrative review if verification has been timely requested and either no verification has been conducted during the two immediately preceding reviews and determinations, or good cause for verification has been shown. The petitioner reiterates that it had timely requested verification. In addition, the petitioner states that no verification of information submitted by MBL has been conducted. Lastly, the petitioner identifies five issues, detailed below, which it claims indicate good cause meriting verification.

First, the petitioner claims that MBL has made untimely submissions for the purpose of impeding the progress of the proceedings, and withheld information from the Department in order to be able to control the final results of the administrative review.

Second, the petitioner claims that the respondent's ESP sales submission is incomplete. It claims that MBL has excluded some transactions from its data by using an inventory turnover methodology to identify the point in time at which sales of a particular model switched from an imported Japanese belt to a domestically produced belt. This, the petitioner claims, was done solely for MBL's own convenience when MBL must identify the country of origin on any imported article according to section 304 of the Tariff Act, and, therefore, MBL must be able to track the origin of manufacture of each of the belts which it sells in the United States.

Third, the petitioner claims that MBL did not completely respond to the Department's queries in the supplemental questionnaire concerning the total weight of the belts which were sold in the United States, the total cost of manufacture of belts sold in the United States, and MBL's sourcing of industrial belts which were sold in the United States.

Fourth, the petitioner requests that the Department reject MBL's claimed inventory expense adjustment which is based upon an average inventory turnover rate because it is not based upon the actual time period for which merchandise was held in inventory by MBL before sale, and, therefore, does not accurately reflect MBL's inventory carrying costs.

Fifth, the petitioner claims that, without explanation, MBL has excluded from its submission certain home market transactions which MBL identifies as being destined for an export market.

Therefore, the petitioner asserts that the Department must rely upon the best information otherwise available when the Department is unable to verify the accuracy of a respondent's data, in accordance with section 776(b) of the Tariff Act.

Department's position: The Department had scheduled verification for MBL, but was forced to reevaluate the utility of the verification after hostilities in the Persian Gulf curtailed the Department's verification activities. Although the Department may elect to verify the information submitted by a respondent to an administrative review, the statute requires the Department to verify respondent's information submitted during an administrative review only if the circumstances defined under section 776(b)(3) of the Tariff Act are fulfilled.

The petitioner did submit a timely request under section 776(b)(3)(A) of the Tariff Act that the Department verify the information submitted by MBL during the course of these proceedings. In order to require verification, section 776(b)(3)(B) also states that either "no verification was made under this paragraph during the 2 immediately preceding reviews and determination under that section of the same order, finding, or notice," or that "good cause for verification is shown." This is the first administrative review of the antidumping duty order on industrial belts from Japan. Even though no verification was conducted during the original investigation of this case, according to the statute, no verification would be required for the first administrative review based upon lack of verification "during the 2 immediately preceding reviews and determination," when there have not been two immediately preceding review and/or investigation periods. (*Final Results of Antidumping Duty Administrative Review; Certain Iron Construction Castings From India*, 55 FR 40697, 40698, October 4, 1990).

Finally, the Department does not agree that the five issues identified by the petitioner demonstrate good cause requiring verification. First, MBL adhered to all of the Department's submission deadlines with the exception of its untimely submission of its purchase price response to the supplemental questionnaire, which the Department rejected and returned to the respondent as described in response to *Comment 2*. In addition, the Department has no evidence substantiating the petitioner's claim that MBL has withheld information from the Department in order to control the final results of this review.

Second, MBL's employment of an inventory turnover method in identifying its ESP sales is acceptable given the characteristics of the market place and of the merchandise subject to this review. Although the Department would prefer that a respondent be able to specifically track and identify the country of manufacture of the merchandise in inventory and offered for sale during the period of review, the Department also recognizes the practical difficulties which would be

encountered by MBL were it to perform this activity which, during the period of review, involved more than fifteen hundred models with tens of thousands of U.S. sales of industrial belts imported from Japan. The Department agrees with MBL's explanation that this large volume, in addition to merchandise manufactured in the United States or imported from third countries, makes it commercially impractical for MBL to maintain an inventory tracking system detailing the country of manufacture of each individual belt sold in any given transaction, irrespective of the existence of an antidumping duty order. Therefore, the Department accepts as reasonable and logical MBL's inventory turnover methodology to identify and report its ESP sales of industrial belts manufactured in Japan, which MBL has certified, in accordance with section 776(a) of the Tariff Act, that the reported ESP transactions are accurate and complete. The issue of MBL's compliance with section 304 of the Tariff Act is under the jurisdiction of the U.S. Customs Service, not the Department of Commerce, and MBL's selection of a method for tracking its inventory of industrial belts is not dependent upon compliance with this section of the Tariff Act.

Third, MBL did report, with its home market and ESP sales data, the total weight of its monthly sales for each type of belt for both home market and ESP sales. MBL's complete statement, as referenced by the petitioner, states that the total weight of its monthly sales is not maintained as part of the company's monthly financial data, and states in response to question 11, that this information would be submitted with its U.S. and home market sales data, which MBL did. In response to question 50 of the supplemental questionnaire and as quoted by the petitioner in its case brief, MBL did describe its sourcing of industrial belts which were sold in the United States, and even provided in its supplemental response a model-by-model listing of its sourcing of industrial belts for the U.S. market.

The Department also accepts MBL's explanation that reporting the aggregated total cost of manufacture of individual belts sold within each product group during each month of the review period would provide little meaningful information. While an individual industrial belt may be sourced from manufacturing facilities located in one country, the industrial belts belonging to any given product group could be produced in different manufacturing facilities located in Japan, Singapore, the Philippines, and the United States. Therefore, combining the product group's production costs from these various locations would provide no useful information in analyzing MBL(USA)'s sales of industrial belts manufactured in Japan.

Fourth, the Department has reviewed MBL's methodology for reporting its inventory carrying cost and is satisfied that the reported expense is reasonable and complete. While the Department prefers using transaction-specific data, a logical average inventory turnover rate, based upon actual physical inventories of the subject merchandise, is acceptable (see *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany; Final Results of Antidumping Duty Administrative Review*, 56 FR 31692, 31728, July 11, 1991 (*AFB's 88/90*)).

Fifth, MBL states in its supplemental response that the unreported home market sales, which were excluded for reason of being destined for export, were identified as such because they were sold to a specific company and customer code, which the Department finds reasonable.

The issues presented above by the petitioner do not substantiate its claim that good cause exists, thus requiring the Department to verify MBL's submitted information. Citing section 776(b) of the Tariff Act, the petitioner asserts that non-verified data is cause enough for the Department to rely upon the best information otherwise available in its final results. If this were true, then for any administrative review in which the Department might rely upon non-verified data for the final results, the petitioner could demand that the Department use the best information otherwise available. However, the petitioner's reference to this section of the statute is inappropriate. The Department interprets this application of the best information otherwise available to be contingent upon the inability of the Department to verify a respondent's data once the Department has elected to conduct a verification of such information (see *Tapered Roller Bearings, Finished and Unfinished, and Parts Thereof, From Japan; Final Results of Antidumping Duty Administrative Review*, 57 FR 4951, 4853, February 11, 1992 (*TRB's 88/89*)). Therefore, the Department has accepted the overall integrity of the information submitted by MBL during the course of this administrative review, and has based its final results upon this information.

Comment 4: Petitioner claims that respondent improperly failed to submit the appropriate cost data to determine whether the difference in merchandise was too great to consider the U.S. and home market models as similar. The petitioner asserts that the use of price greatly inflates the estimate of the total cost of manufacture because of the very large profit margins in the Japanese industrial belts market, and that the use of price as the factor in limiting the dissimilarity between U.S. and Japanese models has allowed more home market models to be matched with U.S. merchandise than would have been identified had the total cost of manufacturing of the U.S. model been reported and used in the analysis. In order to correct this error, the petitioner recommends that the Department use the variable cost of manufacture of each U.S. model to estimate each U.S. model's total cost of manufacture.

Department's position: Section 773(a)(4)(C) of the Tariff Act states that an adjustment may be made to the foreign market value to account for the differences between U.S. merchandise and similar foreign merchandise as defined under sections 771(16) (B) and (C) of the Tariff Act. According to Import Administration Policy Bulletin Number 92.2, issued July 29, 1992, the difference in merchandise adjustment between a U.S. model and a home market or third country model should be limited to twenty percent of the total average cost of manufacture, on a model specific basis, of the product sold in the United States. This ensures that the merchandise which the Department identifies as similar is "approximately equal in commercial value[,]" as required by section 771(16)(B)(iii) of the Tariff Act. Furthermore, this policy is to apply for all future investigations and administrative reviews as well as current proceedings where the necessary information is available without unduly delaying the completion of the case. Otherwise, the Department must adhere as best as possible to the principles set forth in this policy bulletin and the statute while using the information already submitted by the respondent(s) in a given proceeding.

In neither the original questionnaire nor the supplemental questionnaire did the Department ask MBL to report its total cost of manufacture for each U.S. model. Therefore, the Department is not in a position to implement this policy for this case. For the purposes of the final results, the Department used a weighted-average gross U.S. price to limit the magnitude of the size of the difference in merchandise adjustment, and, thereby, limit the number of similar home market models included in the model match for each U.S. model. The U.S. price provides a reasonable basis upon which to determine whether it is reasonable to compare two similar

products. Finally, contrary to the petitioner's assumption, the price used in the Department's final results was not the home market price, but the U.S. price, which does not include the very high Japanese profit margin alleged by the petitioner.

Comment 5: The petitioner states that MBL has unilaterally excluded curvilinear belts from its response despite the petitioner's claim that this category of industrial belts is within the scope of the antidumping duty order. Therefore, the petitioner asserts that the Department must include the U.S. sales of curvilinear belts in its final results.

Department's position: MBL states in its supplemental response that its curvilinear (*i.e.*, round) belts, or "Star Rope" brand, do not contain a tensile member, and no tensile member is identified in MBL's product catalogs. The scope of the antidumping duty order for industrial belts from Japan specifically describes the subject merchandise as constructed "in part or wholly of rubber or plastic, *and* containing textile fiber (including glass fiber), or steel wire, cord or strand" (emphasis added) (*Final Determination of Sales of Less Than Fair Value, Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured, from Japan*, 54 FR 15485, April 18, 1989). In addition, the final determination of the U.S. International Trade Commission (ITC) defined the products under consideration as power transmission belts which are "in part or wholly of rubber or plastics *and also* have a tensile member of cord, yarn, or fabric for reinforcement purposes" (emphasis added) (*Determinations of the Commission in Investigations Nos. 731–TA–412 through 419 (Final)*, USITC Publication 2194 (May 1989), page a–2, (*ITC*)). Furthermore, ITC reported that round belts "have four major parts: (1) The cover, (2) base material, (3) tensile member, and (4) adhesion material" (*ITC*, page a–5). Therefore, because the written description of the subject merchandise is dispositive, the Department does not maintain that this product is within the scope of the antidumping duty order on industrial belts from Japan.

Comment 6: The petitioner states that the Department neglected to include synchronous belts with an MXL profile into the model match program, and requests that the Department correct this error.

Department's position: The Department agrees with the petitioner and has corrected this error in the final results of this review.

Comment 7: The petitioner asserts that the Department should reject MBL's home market freight expense from the factory to a warehouse or to a customer (Freight I) as a direct selling expense in the final results. The petitioner claims that the Freight I expense to a warehouse amounts to a pre-sale shipment expense which cannot be identified with a particular sale, and which, therefore, should be considered a cost of maintaining inventory and treated as an overhead expense. In addition, the petitioner objects that MBL has not reported its freight expenses on a shipment-by-shipment basis, but instead has allocated its transportation expenses for industrial belts as a proportion, by weight, of MBL's transportation expenses incurred for industrial belts and products not subject to this review. The petitioner also rejects as inadequate MBL's allocation method which is based solely upon the weight of the merchandise shipped, and does not consider the distance shipped, which MBL identifies in its supplemental response as a factor which the transportation companies incorporate into their rate schedules.

Therefore, the petitioner recommends that the Department either totally reject MBL's Freight I adjustment, or, at most, treat it as an indirect selling expense in the final results.

Department's position: The Department does not classify transportation costs as a direct or as an indirect selling expense, but rather as a movement expense which is deducted from both the U.S. sales price and the home market sales price in order to derive an adjusted U.S. price and foreign market value which are measured at the same point in a product's progression from raw materials to the customer's hands. Because all movement expenses, both pre-sale and post-sale, are deducted from U.S. price in accordance with section 772(d)(2)(A) of the Tariff Act, both pre- and post-sale movement expenses must also be deducted from home market prices in order to obtain a foreign market value which is valued at the same place, *i.e.*, at the factory's gates (see *AFB's 88/90*, 31715; *TRB's 88/89*, 4953; and *Tapered Roller Bearings, and Parts Thereof, Finished and Unfinished, From Japan; Final Results of Antidumping Duty Administrative Review*, 57 FR 4960, 4967, February 11, 1992 (*TRB's 89/90*)).

The Department agrees with the petitioner that the Department prefers to adjust the home market price for movement expenses on a shipment-by-shipment basis; however, when this is not possible, the Department will accept an allocated movement expense which reasonably represents the respondent's actual experience. The Department recognizes the enormity of the task of tracing, on a transaction-by-transaction basis, the shipping weight and the distance shipped for hundreds of thousands of sales of a product. Therefore, the Department accepts as reasonable MBL's statement in its supplemental response that MBL is unable to attribute, from its billing records from the transportation companies, the actual freight expense which was incurred for the merchandise included in a particular sales transaction, and the Department accepts a reasonable allocation methodology in determining this adjustment (*AFB's 88/90*, 31715).

When transportation costs are allocated to sales under review, the Department prefers that the allocation methodology be logically and reasonably based upon volume, weight, distance, or a combination of these factors. In this situation, MBL maintains and has reported transportation costs for its Belt and Systems Division, which includes industrial belts as well as merchandise not subject to the order. MBL has allocated its recorded transportation costs for this division on the basis of the product's weight, first to industrial belts as a whole, and second to the merchandise sold in each transaction. The Department considers this to be a logical and reasonable methodology to distribute the costs recorded in MBL's accounting system to the sales under review (*AFB's 88/90*, 31716). The Department does not agree with the petitioner's assumption that just because the transportation companies base their rate schedules upon both the shipping weight and the distance shipped, that MBL must, therefore, automatically maintain the same level of detail in its records, or that MBL should be required to do so.

Comment 8: The petitioner asserts that the Department should reject MBL's home market freight expense from the warehouse to a customer (Freight II) because MBL did not explain why its allocation method differs from that used for Freight I. The petitioner also claims that the Department should reject MBL's claimed Freight II expenses to type-B sales subsidiaries because this amounts to an inter-company transfer of funds rather than a direct selling expense unless MBL demonstrates that the transaction was conducted at arm's length.

Department's position: As discussed in the Department's response to *comment 7* above concerning MBL's Freight I expense, an expense incurred by the manufacturer to transport the merchandise from the factory through

the distribution system is not a selling expense, whether direct or indirect, but rather a movement expense. Any movement expense must be deducted from both the U.S. price and the home market or third country price in order to determine an *ex works* U.S. price and foreign market value, so that an equitable comparison may be made to quantify the amount of dumping, if any, which has occurred. Post-production movement expenses may be incurred before or after the date of sale, and may be between related or unrelated parties.

From the descriptions submitted by MBL in its questionnaire and supplemental responses, the Department is satisfied that the Freight II expense constitutes a *bona fide* movement expense, incurred to transport subject merchandise from MBL-Japan's warehouses to distributors, OEM's, and type-B sales subsidiaries (*i.e.*, sales subsidiaries who are not at the same physical location as the warehouse). Therefore, the Department had deducted this adjustment from the home market price in computing the foreign market value of the comparable home market merchandise.

MBL has reported that it accounts for this transportation expense, along with the packaging labor and material costs, incurred by its warehouses as a fixed percentage of the merchandise's value. Therefore, an allocation of the Freight II expense, net of the packaging cost, on an *ad valorem* basis is justified since the Department prefers that an adjustment be allocated on the same basis on which it was incurred. Additionally, from MBL's responses, the Department notes that the vast majority of MBL's home market sales were distributed through MBL's warehouses, and thus transportation costs for movement of merchandise from MBL's warehouses to a customer were incurred on most sales. Therefore, for the final results, the Department has applied the *ad valorem* expense rate provided in the questionnaire response to the gross unit price net of discounts to adjust the home market price for Freight II expense in determining the foreign market value.

Comment 9: The petitioner claims that the Department should exclude the "commissions" paid to type-B sales subsidiaries which MBL has labeled as Freight II because these "commissions" are paid to a related party.

Department's position: As stated in the Department's response to *Comment 8*, the Department is satisfied that the Freight II expense has been properly categorized as a movement expense, and, therefore, the Department has deducted this adjustment from the home market price in determining the foreign market value.

Comment 10: The petitioner asserts that the Department should not accept MBL's claimed rebate adjustment because MBL did not report this expense on a transaction-specific basis. The petitioner cites *AFB's 88/90*, 31717, in stating the Department's practice to only allow rebate adjustments which are "directly associated with the products or sales under considerations." The petitioner claims that MBL even failed to report its rebates on a monthly, customer-specific and item class code basis, as requested by the Department in the supplemental questionnaire.

Department's position: The Department disagrees with the petitioner. The Department prefers to make rebate adjustments which are tied to individual transactions; however, when the respondent is unable to report its rebate expenses on a transaction-specific basis, then "[t]he Department generally makes an adjustment if discounts and rebates, granted pursuant to accurately and adequately described programs, are properly reported on a sale or customer-specific basis and are directly associated with the products or sales under consideration" (*AFB's 88/90*, 31717).

MBL did report its monthly and period rebate amounts by customer code and item class code in its supplemental response. In this submission, MBL clearly identifies the amounts rebated to each customer during each month under review for each item class of industrial belts comparable to the belts subject to the antidumping duty order. Thus, MBL has directly tied its claimed rebate adjustment to the products and sales under review, as required by 19 CFR 353.56(a). In order to reduce the effects of the time lag between a sale and any granted rebate, as well as any fluctuations of the monthly sales volume of the merchandise in a given item class code, the Department accepts MBL's weighted-average allocation over the period of review as providing a reasonable presentation of MBL's actual experience.

Therefore, the Department has deducted MBL's rebate expense from the home market price in the final results.

Comment 11: The petitioner asserts that the Department should reject MBL's claimed adjustment for home market credit expense because MBL did not explain or support its method for determining its average number of days of credit, particularly since MBL failed to report the date of payment for each sale. Therefore, the petitioner claims that MBL's average number of days over which credit was extended is not representative of MBL's actual expense. In addition, the petitioner states that MBL did not demonstrate that its claimed credit expense was incurred solely as a result of the sale of subject merchandise. Therefore, the petitioner insists that the Department reject MBL's claimed credit expense because it has not been reported on a transaction- or customer-specific basis.

Department's position: Although the Department prefers that the credit expense be reported on a transaction-by-transaction basis, the Department does not consider a customer-specific allocation methodology based upon an average number credit days to be unreasonable, especially when presented with the extremely large volume of transactions during the review period (*AFB's 88/90*, 31721).

MBL states that it receives and records its customers' payments on a monthly basis, rather than on an invoice-by-invoice basis, and, therefore, MBL is unable to associate an individual invoice with a particular payment. Therefore, the Department accepts MBL's allocation of its home market credit expense based upon the average number of days of outstanding credit, which MBL calculated from its outstanding monthly adjusted accounts receivable and net monthly sales value.

The Department agrees with the petitioner that a credit expense allocation methodology should be customer-specific. However, MBL states in its questionnaire and supplemental responses that the terms of payment extended to all customers were identical with only infrequent deviations. Thus, the vast majority of MBL's home market sales are made subject to these uniform terms of payment, which are independent of the customer, and, therefore, the average number of credit days calculated upon this basis are representative of MBL's actual experience for all of MBL's home market customers (*Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Certain Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Review*, 56 FR 65228, 65234, December 16, 1991 (*TRB's Under Four Inches 88/89*)).

Therefore, the Department has in the final results adjusted the foreign market value of MBL's credit expense, allocated by an average number of days over which credit was extended for the vast majority of its home market sales, independent of the customer involved in the transaction.

Comment 12: The petitioner claims that MBL has failed to demonstrate that

the claimed technical expenses in the home market are associated with MBL's selling process, and, therefore this should not be classified as an indirect selling expense, but rather as a factory overhead or research and development expense. Thus, the petitioner urges the Department not to adjust the foreign market value for these costs as indirect selling expenses in the final results.

Department's position: The Department disagrees with the petitioner that this expense is unrelated to MBL's selling activities. From MBL's description of its technical services submitted in response to the Department's questionnaires, these costs are related to a sales promotion function which MBL incurs as a necessary part of MBL's corporate goal to develop sales of its industrial belts in Japan. This entails evaluating a specific application problem, which may involve analyzing a customer's new power transmission requirements or solving a customer's existing problem with a competitor's power transmission system. This activity does not constitute research and development, as the petitioner claims, which would involve the cost of developing a new industrial belt rather than engineering an application for existing merchandise. Nor may this activity be classified as factory overhead, since it is related to MBL's selling process, as stated above.

MBL also states that it is unable to relate these expenses to individual transactions. Therefore, the Department has classified MBL's technical expenses as indirect selling expenses in the final results.

Comment 13: The petitioner claims that the Department should reject any claimed home market royalty adjustment because MBL did not submit any evidence that royalties were actually paid as the result of home market sales of subject merchandise.

Department's position: In its supplemental response, MBL stated that it incurred a royalty expense only on the sale of STPD timing belts in the home market, and that such expense is based upon the net unit price of the individual transaction. Therefore, when a sale occurs, as reported in MBL's home market sales listing, then MBL incurs a royalty expense on that sale and is justified in claiming a direct selling expense for that transaction. Additionally, in accordance with section 776(a) of the Tariff Act, the respondent has certified the accuracy and completeness of its submissions. Therefore, the Department has continued to adjust foreign market value for MBL's claimed royalty expense for STPD timing belts.

Comment 14: The petitioner contends that the Department should either make no adjustment to foreign market value in the final results for MBL's home market advertising expense, or continue to classify this expense as an indirect selling expense. The petitioner claims that MBL did not demonstrate the claimed adjustment was related to the sale of industrial belts, nor did MBL submit examples of its advertisements which accounted for these expenses.

Department's position: In the Department's supplemental questionnaire, the Department requested MBL to completely describe and submit examples of the different types of advertising which MBL used to promote sales of its industrial belts in Japan. MBL submitted a brief, general description of its advertising programs, but did not provide any detailed information in its supplemental response. Thus, the Department could not directly relate MBL's claimed direct advertising expenses to the sales of subject merchandise, and has considered these costs as indirect expenses, which promote MBL's corporate image and thereby indirectly promote the sale of all of MBL's products in the Japanese market (*TRB's 89/90*, 4969). Therefore, in the final results, the Department has included MBL's home market advertising costs in the pool of indirect selling expenses.

Comment 15: The petitioner states that the warehousing expense claimed by MBL is a pre-sale warehousing expense, which the Department should exclude from MBL's home market indirect selling expenses, and, therefore, make no adjustment in the final results.

Department's position: In accordance with Section 772(d)(2)(A) of the Tariff Act and 19 CFR 353.41(d)(2)(i), the Department must deduct from the U.S. price any cost and expense which the respondent has incurred pursuant "to bringing the merchandise from the place of shipment in the country of exportation to the place of delivery in the United States." In order to make an objective comparison between the U.S. price and the foreign market value to determine whether dumping has occurred, the Department must establish an ex-factory foreign market value employing the same rationale as that used to calculate the U.S. price as mandated by the statute. The result of not adjusting the foreign market value for a pre-sale, ex-factory warehouse expense would be an inconsistent and unfair comparison between the U.S. price and the foreign market value (*AFB's 88/90*, 31715; *TRB's 88/89*, 4967; *TRB's Under Four Inches 88/89*, 65233, for analogous discussions concerning pre-sale freight expenses). Therefore, a warehouse expense could be claimed in the home market if this expense was incurred subsequent to shipment from the factory but prior to sale by the respondent.

In examining MBL's response, the one customer for which MBL-Japan incurs warehousing expenses is not located in the same city as any of MBL-Japan's manufacturing facilities, and, therefore, any warehousing expense incurred for this customer would constitute an ex-factory expense. Therefore, the Department has deducted this expense from the gross unit price of the sales to this single identified customer in order to derive an ex-factory foreign market value in the final results.

Comment 16: The petitioner claims that any adjustment for the domestic Japanese consumption tax should only be applied to the U.S. price. The petitioner asserts that the statute only authorizes an adjustment to the U.S. price when there is a tax on the subject merchandise which is not collected because of exportation. Furthermore, the petitioner asserts that the consumption tax does not constitute a selling expense, and, therefore, no circumstance-of-sale adjustment to the foreign market value should be made.

Department's position: On March 19, 1993 the United States Court of Appeals for the Federal Circuit, in affirming the decision of the Court of International Trade in *Zenith Electronics Corporation* v. *United States*, Slip Op. 92–1043, –1044, –1045, ruled that section 772(d)(1)(C) of the Tariff Act provides for an addition to the U.S. price to account for taxes which the exporting country would have assessed on the merchandise had it been sold in the home market, and that section 773(a)(4)(B) on the Tariff Act does not allow circumstance-of-sale adjustments to foreign market value for differences in taxes. Accordingly, the Department has changed its practice and will no longer make a circumstance-of-sale adjustment. Also, the Department will no longer calculate a hypothetical tax on the U.S. product, but will, for the time being, add to U.S. price the absolute amount of tax on the comparison merchandise sold in the country of exportation. By adding the amount of the home market tax to the U.S. price, absolute dumping margins are not inflated or deflated by the differences between taxes included in the foreign market value and those added to the U.S. price.

In addition, the Department will propose a change in 19 CFR 353.2(f)(2) to provide that the Department will calculate weighted-average dumping

margins by dividing the aggregated dumping margins, calculated as described below, by the aggregated U.S. prices net of taxes. This change would result in weighted-average dumping margin rates which are neither inflated nor deflated on account of the Department's methodology of accounting for taxes paid in the home market but rebated or not collected by reason of exportion. The Department is in the process of drafting this proposed change, and will begin the rulemaking process as soon as possible.

Comment 17: The petitioner asserts that the Department should reject MBL's claimed adjustment for testing and inspection expenses as an indirect selling expense. The petitioner claims that these expenses are not related to MBL's sales of industrial belts.

Department's position: The Department disagrees with the petitioner that these expenses are not related to MBL's sales strategy. As MBL describes in its supplemental response, this activity entails the analysis of a customer's application of a competitor's industrial belt by an MBL service engineer, with the goal of selling MBL merchandise to that customer. This is similar to the technical services addressed above in response to *Comment 12*. Therefore, for the same reason as discussed above, the Department has included MBL's testing and inspection expenses as an indirect selling expense in the final results.

Comment 18: The petitioner asserts that the Department should exclude insurance and rental "A" expenses from MBL's pool of indirect home market selling expenses. The petitioner asserts that MBL has failed to demonstrate that these expenses were incurred on behalf of its sales operations.

Department's position: From MBL's questionnaire and supplemental responses, the Department is unable to determine whether the claimed insurance and rental "A" expenses are related to MBL's selling activities. However, the inclusion or exclusion of these expenses would have a *de minimis* effect on any resulting dumping margin. Therefore, the Department has left these two expense items in the pool of home market indirect selling expenses for the final results.

Comment 19: The petitioner claims that MBL's home market inventory carrying costs constitute an overhead and not an indirect home market selling expense, and, therefore, the Department should make no adjustment for this claimed expense. The petitioner asserts that the purpose of an adjustment to the U.S. price for inventory carrying costs is to reflect the cost incurred by the manufacturer for bearing the delayed receipt of payment for the sale of goods to a U.S. customer. Furthermore, the petitioner claims that the cost of carrying inventory in the home market, which the foreign manufacturer chooses to undertake, should be considered an overhead expense related to the cost of doing business. Therefore, the petitioner argues that the Department should only adjust the U.S. price and not the foreign market value for the seller's inventory carrying costs.

Department's position: According to section 772(d)(2)(A) of the Tariff Act, the Department shall adjust the U.S. price by "any additional costs, charges, and expenses * * * incident to bringing the merchandise from the place of shipment in the country of exportation to the place of delivery in the United States[.]" The Department has used this section of the statute to establish that the U.S. price used in its analysis be measured at the time that the subject merchandise leaves the manufacturer's factory, *i.e.*, an *ex works* price. This may include expenses incurred prior to sale to the first unrelated U.S. customer, such as ocean freight or the inventory carrying costs imputed for the time which the merchandise was in transit from the factory to the U.S. customer.

In order to make an objective comparison between the U.S. price and the foreign market value, the foreign market value must also be measured at the same point in the merchandise's transformation from raw materials to goods sold in the market place, *i.e.*, an *ex works* foreign market value. This may also include some expenses incurred prior to sale to the home market or third country customer, but subsequent to the shipment from the factory. Therefore, the black and white designation of a pre- or post-sale expense does not universally qualify or disqualify a particular adjustment to foreign market value.

Therefore, in order to ensure a fair and objective comparison of the U.S. price and foreign market value, the Department has deducted inventory carrying costs from both the U.S. and home market prices. The adjustment to U.S. price is treated as an indirect selling expense since it is not directly related to an individual transaction, and the adjustment to the home market price is included in the pool of home market indirect selling expenses, which is limited by the ESP cap.

Comment 20: The petitioner asserts that the Department should treat MBL's advertising expenses incurred in the United States as direct selling expenses because MBL has not demonstrated that this adjustment is an indirect selling expense.

Department's position: The Department requested in the supplemental questionnaire that MBL submit a complete description of its advertising programs in the United States and justify MBL's classification of its U.S. advertising costs as indirect selling expenses rather than direct selling expenses. MBL provided in its supplemental response a general description of its different advertising programs but failed to submit the detailed information requested by the Department. As stated by the petitioner, it is to the respondent's advantage to classify an adjustment to U.S. price as an indirect expense (and correspondingly to classify an adjustment to the foreign market value as a direct expense), and therefore the respondent must demonstrate that an adjustment so classified is justified as such. This approach was discussed in detail with relation to discounts and rebates in the final results of the 1988/89 TRB review (*TRB's 88/89*, 4954). Because MBL has failed to submit evidence that its U.S. advertising expenses are not directly related to the sale of subject merchandise, the Department has classified these costs as direct selling expenses in the final results of this review.

Final Results of the Review

As a result of this administrative review, the Department determines that the following dumping margins exist for the period of June 7, 1989 through May 31, 1990:

Manufacturer/exporter	Dumping margin percent
Mitsuboshi Belting Limited	52.60
Bando Chemical Industries, Ltd ...	93.16
Nitta Industries	93.16

The Department will instruct the U.S. Customs Service to assess antidumping duties on all appropriate entries. Individual differences between the United States price and the foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of the subject merchandise, entered for consumption, or withdrawn from warehouse for consumption, on or after the publication date, as provided by section 751(a)(1) of the Tariff Act: (1)

For subject merchandise exported by the companies covered by this review, a cash deposit based upon the final rates outlined above; (2) for subject merchandise exported by manufacturers or exporters not covered in this review but covered in previous reviews or in the original less-than-fair-value investigation, a cash deposit based upon the most recently published rate in a final result or determination for which the manufacturer or exporter received a company-specific rate; (3) for subject merchandise exported by an exporter not covered in this review, a prior review, or the original investigation, but where the manufacturer of the merchandise has been covered by this or a prior final result or determination, a cash deposit based upon the most recently published company-specific rate for that manufacturer; and (4) for merchandise exported by all other manufacturers and exporters who are not covered by this or any prior final result or determination, a cash deposit based upon a rate of 52.60 percent. This cash deposit rate for all other manufacturers and/or exporters represents the highest, most recent rate for any firm in this proceeding other than those firms receiving a rate based entirely upon the best information otherwise available. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this period of review. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.35(d) or 355.35(d). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply is a violation of the APO.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: May 18, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93-12360 Filed 5-24-93; 8:45 am]

BILLING CODE 3510-DS-M

[A-570-807]

Oscillating Fans From the People's Republic of China: Notice of Court Decision, Retroactive Revocation of Antidumping Duty Order, and Termination of Administrative Review

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

EFFECTIVE DATE: May 22, 1993.

FOR FURTHER INFORMATION CONTACT: Mark Wells or Louis Apple, 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) 482-3003 or (202) 482-1769, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 9, 1991, the Department published the antidumping duty order and amended the final determination of sales at less-than-fair value for oscillating fans from the PRC. Antidumping Duty Orders and Amendments to Final Determinations of Sales at Less Than Fair Value: Oscillating Fans and Ceiling Fans From the People's Republic of China, (56 FR 64240). Respondent, Holmes/Esteem, instituted an action challenging the Department's final determination. On July 24, 1992, the CIT issued *Holmes Products Corp.* versus *United States,* 795 F. Supp. 1205, Slip Op. 92-118 (July 24, 1992), which remanded the determination to the Department. Upon remand, the Department determined that Holmes/Esteem had a *de minimis* margin, pursuant to 19 CFR 353.6, and that the final determination of the less-than-fair value investigation was negative. This remand was affirmed by the CIT on November 12, 1992. *Holmes Products Corp.* versus *United States,* No. 91-12-00906, Slip Op. 92-203 (CIT November 12, 1992). As a result, the Department revoked prospectively the antidumping duty order on oscillating fans from the PRC, effective November 22, 1992, ten days after the CIT affirmed the Department's remand determination. See Oscillating and Ceiling Fans From the People's Republic of China: Notice of Court Decision and Revocation of Antidumping Duty Order on Oscillating Fans, 58 FR 6474 (January 29, 1993). Additionally, as a result of the prospective revocation of the order, the Department instructed Customs to terminate the suspension of liquidation and to proceed with liquidation of the subject merchandise which entered the United States on or after November 22, 1992, without regard to antidumping duties. *Id.*

Holmes/Esteem subsequently sought a permanent injunction requiring liquidation of all entries of oscillating fans from the PRC, without regard to antidumping duties, entering the United States on or after June 5, 1991, the date of the Department's preliminary determination and original suspension of liquidation. On May 12, 1993, the CIT granted the permanent injunction. *Holmes Products Corp.* versus *United States,* No. 91-12-00906, Slip Op. 93-71 (CIT May 12, 1993). The Department, therefore, will instruct Customs to liquidate all entries of the subject merchandise back to June 5, 1991, the date of the Department's preliminary determination and original suspension of liquidation, without regard to antidumping duties. Additionally, as a result of the Court's order, the Department is revoking retroactive to June 5, 1991, the order on oscillating fans from the PRC, and is terminating the administrative review, initiated February 23, 1993 (58 FR 11026), for the period June 5, 1991 through November 30, 1992.

Termination of Suspension of Liquidation

Pursuant to section 516(e)(2) of the Tariff Act of 1930, the Department will instruct the U.S. Customs Service to terminate the suspension of liquidation of oscillating fans from the PRC, and to proceed with liquidation of the subject merchandise, which entered the United States between June 5, 1991, and November 21, 1992, without regard to antidumping duties.

Dated: May 21, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93-12478 Filed 5-24-93; 8:45 am]

BILLING CODE 3510-DS-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Extension of an Import Limit for Certain Cotton Textile Products Produced or Manufactured in Oman

May 18, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs extending a limit.

EFFECTIVE DATE: May 31, 1993.

FOR FURTHER INFORMATION CONTACT: Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715. For information on categories on which consultations have been requested, call (202) 482–3740.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The United States Government has decided to continue the restraint limit on Categories 347/348 for an additional twelve-month period, beginning on May 31, 1993 and extending through May 30, 1994.

The United States remains committed to finding a solution concerning these categories. Should such a solution be reached in consultations with the Government of Oman, further notice will be published in the **Federal Register**.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 57 FR 54976, published on November 23, 1992). Also see 57 FR 39672, published on September 1, 1992.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 18, 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); and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on May 31, 1993, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 347/348, produced or manufactured in Oman and exported during the twelve-month period beginning on May 31, 1993 and extending through May 30, 1994, in excess of 654,542 dozen.

Imports charged to this category limit for the period May 31, 1992 through May 30, 1993 shall be charged against the level of restraint to the extent of any unfilled balance. Goods in excess of that limit shall be subject to the limit established in this directive.

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).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–12255 Filed 5–24–93; 8:45 am]

BILLING CODE 3510–DR–F

Extension of an Import Limit for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Oman

May 18, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs extending a limit.

EFFECTIVE DATE: June 29, 1993.

FOR FURTHER INFORMATION CONTACT: Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715. For information on categories on which consultations have been requested, call (202) 482–3740.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The United States Government has decided to continue the restraint limit on Categories 341/641 for an additional twelve-month period, beginning on June 29, 1993 and extending through June 28, 1994.

The United States remains committed to finding a solution concerning these categories. Should such a solution be reached in consultations with the Government of Oman, further notice will be published in the **Federal Register**.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 57 FR 54976, published on November 23, 1992). Also see 57 FR 39672, published on September 1, 1992.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 18, 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); and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on June 29, 1993, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 341/641, produced or manufactured in Oman and exported during the twelve-month period beginning on June 29, 1993 and extending through June 28, 1994, in excess of 120,703 dozen.

Imports charged to this category limit for the period June 29, 1992 through June 28, 1993 shall be charged against the level of restraint to the extent of any unfilled balance. Goods in excess of that limit shall be subject to the limit established in this directive.

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).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–12256 Filed 5–24–93; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Public Hearing Schedule; Defense Base Closure and Realignment Commission

AGENCY: Defense Base Closure and Realignment Commission.
ACTION: Notice.

SUMMARY: The Defense Base Closure and Realignment Commission publicly announces additions to the public-hearing schedule.

The Commission will hold open, public hearings on Monday, June 14 and Tuesday, June 15, 1993 to hear testimony from Members of Congress whose states and districts may be affected by potential defense base closures or realignments. Wednesday, June 16 will be a backup hearing day if needed for additional testimony from such Members of Congress. These hearings will be held in the Washington DC area at locations and times to be determined.

Additionally, the Commission will hold open, public hearings on Thursday, June 17; Friday, June 18; and Wednesday, June 23 through Saturday, June 26, 1993 for deliberations on the Commission's recommendations to the President. The Commission anticipates final votes to occur on Saturday, June 26; however, if all deliberations are not completed by this day, final votes will occur following deliberations on Sunday, June 27th. These hearings will be held in the Washington DC area at times and locations to be determined.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Houston, Director of Communications at (703) 696–0504. Please contact the Commission to confirm any last-minute changes in schedules for, and dates, times, and locations of all upcoming hearings. Any person requiring special accommodations at any of the aforementioned hearings should contact the Commission no later than five (5) business days prior to the hearing.

Dated: May 20, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison, Department of Defense.

[FR Doc. 93–12321 Filed 5–24–93; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board Task Force on C–17 Review; Meeting

AGENCY: Doe.
ACTION: Notice of advisory committee meeting.

SUMMARY: The Defense Science Board Task Force on C–17 Review will meet in closed session on June 1–4, 1993 at McDonnell Douglas, Long Beach, California; and on June 15–16, and July 1–2, and July 13–15, 1993 at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense (Acquisition) or research, scientific, technical, and manufacturing matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will access the current status of the C–17 program.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. app. II, (1988)), it has been determined that these DSB Task Force meetings, concern matters listed in 5 U.S.C. 552b(c)(4) (1988), and that accordingly these meetings will be closed to the public.

Dated: May 20, 1993.

L.M. Bynum,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–12325 Filed 5–24–93; 8:45 am]

BILLING CODE 5000–04–M

Public Information Collection Requirement Submitted to OMB for Review

AGENCY: DOD.
ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: DoD FAR Supplement, Part 211, Acquisition and Distribution of Commercial Products; OMB Control Number 0704–0318.

Type of Request: Revision.

Average Burden Hours/Minutes Per Response: 1 Hour.

Responses Per Respondent: 1.

Number of Respondents: 60.

Annual Burden Hours: 60.

Annual Responses: 60.

Needs and Uses: This request concerns information collection requirements for the simplified contract for the acquisition of commercial items by DoD. A solicitation provision in the DoD FAR Supplement at 252.211–7012, "Commercial Product Representation" requires offerors responding to a solicitation to identify Government production and research property, if any, that will be used in conjunction with production of the commercial item offered. The information submitted will be used by the Government to insure that the offerors who are in possession of Government production and research property are not provided an unfair advantage over competitors.

Affected Public: Businesses or other for-profit organizations; Small Businesses or organizations.

Frequency: On occasion.

Respondent's Obligation: Required to obtain a benefit.

OMB Desk Officer: Mr. Peter N. Weiss.

Written comments and recommendations on the information collection should be sent to Mr. Weiss at Office of Management and Budget, Desk Officer for DoD, room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, Virginia 22202–4302.

Dated: May 20, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–12322 Filed 5–24–93; 8:45 am]

BILLING CODE 5000–04–M

Public Information Collection Requirement Submitted to OMB for Review

AGENCY: DoD.
ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: Solicitation Customer Feedback Survey.

Type of Request: New Collection.

Average Burden Hours/Minutes Per Response: 30 minutes.

Responses Per Respondent: 1.

Number of Respondents: 2,000.

Annual Burden Hours: 1,000.

Annual Responses: 2,000.

Needs and Uses: Over the last several years Headquarters Army Material Command has adopted several acquisition related initiatives designed to improve solicitations. It is now necessary to have industry's assessment of the significance of the improvements. The Solicitation Customer Feedback

Survey has been designed to measure their assessment.

Affected Public: Business or other for-profit; Small businesses or organizations.

Frequency: One time.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Peter N. Weiss.

Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DoD, room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, Virginia 22202–4302.

Dated: May 20, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–12323 Filed 5–24–93; 8:45 am]

BILLING CODE 5000–04–M

Public Information Collection Requirement Submitted to OMB for Review

AGENCY: DOD.

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C., chapter 35).

Title, Applicable Form, and OMB Control Number: Army ROTC 4-Year Scholarship Application; ROTC Cadet Command Form 114; OMB No. 0702–0073

Type of Request: Reinstatement.

Number of Respondents: 7,500.

Responses Per Respondent: 1.

Annual Responses: 7,500.

Average Burden Per Response: 45 minutes.

Annual Burden Hours: 5,625.

Needs and Uses: ROTC scholarships provide the Army with highly qualified men and women who desire to pursue commissioned service in the U.S. Army. The information submitted on the application provides the basis for scholarship award.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce. Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, VA 22202–4302.

Dated: May 20, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–12324 Filed 5–24–93; 8:45 am]

BILLING CODE 5000–04–M

Department of the Air Force

Privacy Act of 1974; Delete and Amend Systems of Records

AGENCY: Department of the Air Force, (DoD).

ACTION: Delete and amend systems of records.

SUMMARY: The Department of the Air Force proposes to delete one and amend eleven systems of records in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The deleted system is effective May 25, 1993.

The amended systems will be effective June 24, 1993, unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the Air Force Access Programs Manager, SAF/AAIA, 1610 Air Force Pentagon, Washington, DC 20330–1610.

FOR FURTHER INFORMATION CONTACT: Mr. James H. Gibson at (703) 697–3491 or DSN: 227–3491.

SUPPLEMENTARY INFORMATION: The Department of the Air Force Privacy systems of records notices have been published in the **Federal Register** and are available from the address above. The deleted and amended systems are not within the purview of subsection (r) of the Privacy Act (5 U.S.C. 552a), as amended, which requires the submission of an altered system report.

Dated: May 14, 1993.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DELETION

F265 HC C

System name:

Directory of Active Duty and Retired Chaplains, *(February 22, 1993, 58 FR 10515).*

Reason:

System is no longer needed. There are no plans to reinstate this system in the future. Records maintained in this system have been destroyed.

AMENDMENTS

F030 AFIS A

SYSTEM NAME:

For Cause Discharge Program, *(February 22, 1993, 58 FR 10314).*

CHANGES:

SYSTEM IDENTIFIER:

Change system identifier to 'F030 AFISA A.'

* * * * *

SYSTEM LOCATION:

Delete entry and replace with 'Personnel Security Division, Directorate of Security and Communications Management, Air Force Intelligence Support Agency, 1816 North Moore Street, Suite 400, Arlington, VA 22209–1809 and Administrative Assistant to the Secretary of the Air Force, 1720 Air Force Pentagon, Washington, DC 20330–1720.'

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete (AFIS) and insert Air Force Intelligence Support Agency (AFISA).

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Place a period (.) after 'Commissioned Officers' and delete remainder of sentence.

PURPOSE(S):

Delete second sentence and replace with 'Substantive information is provided to responsible individuals in the office of the Secretary of the Air Force to evaluate the effectiveness of the program, to determine consistency of decisions and decision trends, and to provide program guidance to the system manager.'

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'Director of Security and Communications Management, Air Force Intelligence Support Agency, 1816 North Moore Street, Suite 400, Arlington, VA 22209–1809.'

NOTIFICATION PROCEDURE:

Delete entry and replace with 'Individuals seeking to determine whether this system of records contains information on themselves should address inquiries to the Director of Security and Communications Management, Air Force Intelligence Support Agency, 1816 North Moore Street, Suite 400, Arlington, VA 22209–1809.'

RECORD ACCESS PROCEDURES:

Delete entry and replace with 'Individuals seeking to access records about themselves contained in this system should address requests to the Director of Security and Communications Management, Air Force Intelligence Support Agency, 1816 North Moore Street, Suite 400, Arlington, VA 22209–1809.

Unclassified portions of the file are available upon request. Request must include full name, grade (where applicable), Social Security Number, date and place of birth, organization/activity to which assigned/employed at time of proposed For Cause Separation. Visits may be made to the office of the system manager.'

* * * * *

F030 AFISA A

SYSTEM NAME:

For Cause Discharge Program.

SYSTEM LOCATION:

Personnel Security Division, Directorate of Security and Communications Management, Air Force Intelligence Support Agency, 1816 North Moore Street, Suite 400, Arlington, VA 22209–1809, and Administrative Assistant to the Secretary of the Air Force, 1720 Air Force Pentagon, Washington, DC 20330–1720.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All personnel who are briefed into Sensitive Compartmented Information (SCI) who are being considered for separation from service or employment for either punitive or administrative (nonvoluntary) reasons.

CATEGORIES OF RECORDS IN THE SYSTEM:

Initial submission and recommendations of the Air Force Major Command (MAJCOM) or Field Operating Agency (FOA) concerned and all supporting documents for the proposed action; Air Force Intelligence Support Agency (AFISA), Directorate of Security and Communication Management recommendations for disposition to the Assistant Chief of Staff for Intelligence HQ, U.S. Air Force; if applicable, decisions and correspondence from Administrative Assistant to the Secretary of the Air Force.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force: Powers and duties; delegation by; DOD 5200.2–R; as implemented by Air Force Regulation 205–32, USAF Personnel Security Program, USAFINTEL 201–1 (Chapter 13); Air Force Regulation 39–10, Administrative Separation of Airmen; Air Force Regulation 36–12, Administrative Separation of Commissioned Officers.

PURPOSE(S):

Used by designated Air Force intelligence officials to recommend/determine propriety of proposed action in light of individual's SCI access.

Substantive information is provided to responsible individuals in the office of the Secretary of the Air Force to evaluate the effectiveness of the program, to determine consistency of decisions and decision trends, and to provide program guidance to the system manager.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Retrieved by name and year of the For Cause Action.

SAFEGUARDS:

Records are accessed by custodian of the record system. Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in security file containers within a vault.

RETENTION AND DISPOSAL:

Records maintained in active status until final disposition of each separate file. After final disposition of the case the record is placed in inactive status and maintained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Security and Communications Management, Air Force Intelligence Support Agency, 1816 North Moore Street, Suite 400, Arlington, VA 22209–1809.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on themselves should address inquiries to the Director of Security and Communications Management, Air Force Intelligence Support Agency, 1816 North Moore Street, Suite 400, Arlington, VA 22209–1809.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the Director of Security and Communications Management, Air Force Intelligence Support Agency, 1816 North Moore Street, Suite 400, Arlington, VA 22209–1809.

Request must include full name, grade (where applicable), Social Security Number, date and place of birth, organization/activity to which assigned/employed at time of proposed For Cause Separation. Visits may be made to the office of the system manager. Unclassified portions of the file are available upon request.

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual's personnel records and MAJCOM/FOA Commander's proposal and recommendations with all supporting documents.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F035 AF MP H

SYSTEM NAME:

Air Force Enlistment/Commissioning Records System, *(February 22, 1993, 58 FR 10327).*

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with 'Headquarters United States Air Force

Recruiting Service, Randolph Air Force Base, TX 78150–5421; recruiting offices; Military Entrance Processing Stations, and Liaison Noncommissioned Officer offices in all states. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.'

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with 'Commissioning records at Headquarters United States Air Force Recruiting Service (USAFRS/RS) are maintained for one year. Files of applicants not enlisted are retained in the local recruiting office and destroyed after two years. Records of enlistees that are not forwarded to Master and Unit Personnel Records files are destroyed after two years. Records are destroyed by tearing into pieces, burning, shredding, macerating or pulping.'

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'Assistant Deputy Chief of Staff for Personnel, Air Force Military Personnel Center, Randolph Air Force Base, TX 78150–6001.'

NOTIFICATION PROCEDURE:

Delete entry and replace with 'Individuals seeking to determine whether this system of records contains information on themselves should address inquiries to, or contact recruiting officials at respective recruiting office locations. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.'

RECORD ACCESS PROCEDURES:

Delete entry and replace with 'Individuals seeking to access records about themselves contained in this system should address requests to, or contact recruiting officials at respective recruiting office locations. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.'

* * * * *

F035 AF MP H

SYSTEM NAME:

Air Force Enlistment/Commissioning Records System.

SYSTEM LOCATION:

Headquarters United States Air Force Recruiting Service, Randolph Air Force Base, TX 78150–5421; recruiting offices; Military Entrance Processing Stations, and Liaison Noncommissioned Officer offices in all states. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for enlistment or commissioning programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's application, personal interview record (PIR) and supporting documents containing name, Social Security Number, finger prints, historical background, education, medical history, physical status, employment, religious preferences (optional), marital and dependency status, linguistic abilities, aptitude test results, parental consent for minors.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. Chapter 31, Enlistments; implemented by Air Force Regulation 33–3, Enlistment in the United States Air Force; and E.O. 9397.

PURPOSE(S):

Information is collected by recruiters to determine enlistment/commissioning eligibility, and process qualified applicants. Personnel managers use a hard copy documentation of data entered in Personnel Data Systems (PDS). Personnel managers also use certain documents to determine classification and assignment actions after enlistment. All documents are source documents in determining benefits/entitlement.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets.

RETRIEVABILITY:

Retrieved by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Commissioning records at Headquarters United States Air Force Recruiting Service (USAFRS/RS) are maintained for one year. Files of applicants not enlisted are retained in the local recruiting office and destroyed after two years. Records of enlistees that are not forwarded to Master and Unit Personnel Records files are destroyed after two years. Records are destroyed by tearing into pieces, burning, shredding, macerating or pulping.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff for Personnel, Air Force Military Personnel Center, Randolph Air Force Base, TX 78150–6001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on themselves should address inquiries to, or contact recruiting officials at respective recruiting office location. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to, or contact recruiting officials at respective recruiting office locations. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual provides through written application or personal interview.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F035 AFSC A

SYSTEM NAME:

Personnel Management System for AFSC Commanders, *(February 22, 1993, 58 FR 10342).*

CHANGES:

SYSTEM IDENTIFIER:

Change system identifier to 'F035 AFMC A.'

SYSTEM NAME:

Delete entry and replace with 'Personnel Management Information System for Air Force Materiel Command (AFMC) Commanders.'

SYSTEM LOCATION:

Delete entry and replace with 'Air Force Materiel Command Headquarters, Divisions, Centers, and Laboratories. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.'

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete 'AFSC' and insert 'Air Force Materiel Command (AFMC).'

* * * * *

PURPOSE(S):

Add to end of entry 'Used to prepare nominations for honors and awards, and as background for evaluating requests for admission to professional societies or professional training.'

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete entry and replace with 'The 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of systems of records notices apply to this system.'

* * * * *

RETRIEVABILITY:

Delete entry and replace with 'Retrieved by name, Social Security Number or Position Number.'

SAFEGUARDS:

Delete numbers in paragraph and add to end of entry 'Those in computer storage devices are protected by computer system software.'

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete 'AFSC' and insert 'Air Force Materiel Command.'

NOTIFICATION PROCEDURE:

Delete 'AFSC' and insert 'Air Force Materiel Command,' and add to end of entry 'Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.'

RECORD ACCESS PROCEDURES:

Delete 'AFSC' and insert 'Air Force Materiel Command,' and add to end of entry 'Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.'

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F035 AFMC A

SYSTEM NAME:

Personnel Management Information System for Air Force Materiel Command (AFMC) Commanders.

SYSTEM LOCATION:

Air Force Materiel Command Headquarters, Divisions, Centers, and Laboratories. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force officer, enlisted, and civilian personnel assigned to or scheduled for assignment to various Air Force Materiel Command (AFMC) organizations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Resumes and other data elements to record name, date of birth, service dates, assignment status, grade, salary, promotion and step increase dates, occupational series, Air Force Materiel Command, skill level, position title, educational level, professional/scientific status, special training, awards, publications, handicap, minority and sex codes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force: Powers and duties; delegation by; and E.O. 9397.

PURPOSE(S):

Provides data concerning the professional qualifications for selection and utilization of assigned personnel, for position management, and to perform certain scientific and technical research efforts in program support.

Used to prepare nominations for honors and awards, and as background for evaluating requests for admission to professional societies or professional training.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in computers and computer output products and in binders or file cabinets.

RETRIEVABILITY:

Retrieved by name, Social Security Number or Position Number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Those in computer storage devices are protected by computer system software.

RETENTION AND DISPOSAL:

Retained in computer file or secured office file until reassignment or separation, then destroyed by tearing into pieces, shredding, pulping, macerating or burning. Upon reassignment or separation, information in the computer file relating to the individual is deleted from the data base.

SYSTEM MANAGER(S) AND ADDRESS:

Commanders, Executive Officers, Product Managers of various Air Force Materiel Command subordinate organizations. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on themselves should address inquiries to the system manager or Record Custodian at subordinate Air Force Materiel Command organizations. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to or visit the system manager or Record Custodian at subordinate Air Force Materiel Command organizations. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records and for contesting and appealing initial agency determinations are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information will be obtained from military and civilian personnel records, managers and supervisors of individuals on a voluntary basis.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F035 SAFCB A

SYSTEM NAME:

Military Records Processed by the Air Force Correction Board, *(May 29, 1985, 50 FR 22425).*

CHANGES:

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SYSTEM LOCATION:

Delete entry and replace with 'Office of the Secretary of the Air Force, 1661 Air Force Pentagon, Washington, DC 20330–1661 and the Washington National Records Center, Suitland, MD 20409.'

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete (SAFCB) and insert Air Force Board for the Correction of Military Records (AFBCMR).

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with 'Case files consist of applications to AFBCMR for correction of military records, with supporting evidence, staff advisory opinions and final determinations.'

* * * * *

PURPOSE(S):

Delete entry and replace with 'To review applications for correction of military records to determine the existence of an error or injustice and, when appropriate, make recommendations to the Secretary of the Air Force.'

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete entry and replace with 'The 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of systems of records notices apply to this system.'

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with 'Case files are maintained for 75 years then destroyed. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning.'

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'Executive Secretary, Air Force Board for the Correction of Military Records, Headquarters, United States Air Force, 1661 Air Force Pentagon, Washington, DC 20330–1661.'

NOTIFICATION PROCEDURE:

Delete entry and replace with 'Individuals seeking to determine whether this system of records contains information on themselves should address inquiries to the Executive Secretary, Air Force Board for the Correction of Military Records, Headquarters, United States Air Force, 1661 Air Force Pentagon, Washington, DC 20330–1661.'

RECORD ACCESS PROCEDURES:

Delete entry and replace with 'Individuals seeking to access records about themselves contained in this system should address requests to the Executive Secretary, Air Force Board for the Correction of Military Records, Headquarters, United States Air Force, 1661 Air Force Pentagon, Washington, DC 20330– 1661; Washington National Records Center, Suitland, MD 20409.

Request for review must provide applicant's full name, Social Security Number, and AFBCMR docket number (if known). Reviews are held in Suite 201, 1745 Jefferson Davis Highway, Arlington, VA, between the hours of 0900 to 1600. An applicant must present a personal identification document. A designated representative must present a letter of authorization from the applicant.'

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F035 SAFCB A

SYSTEM NAME:

Military Records Processed by the Air Force Correction Board.

SYSTEM LOCATION:

Office of the Secretary of the Air Force, 1661 Air Force Pentagon, Washington, DC 20330–1661 and the Washington National Records Center, Suitland, MD 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All members or former members of the Air Force; Army Air Forces, Air Corps, United States Army; Air Service, United States Navy; and Aviation Section, Signal Corps, United States Army, who have applied to the Air Force Board for the Correction of Military Records (AFBCMR).

CATEGORIES OF RECORDS IN THE SYSTEM:

Case files consist of applications to AFBCMR for correction of military records, with supporting evidence, staff advisory opinions and final determinations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. Chapter 79 - Correction of Military Records.

PURPOSE(S):

To review applications for correction of military records to determine the existence of an error or injustice and, when appropriate, make recommendations to the Secretary of the Air Force.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Retrieved by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets.

RETENTION AND DISPOSAL:

Case files are maintained for 75 years then destroyed. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Secretary, Air Force Board for the Correction of Military Records, 1661 Air Force Pentagon, Washington, DC 20330–1661.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on themselves should address inquiries to the Executive Secretary, Air Force Board for the Correction of Military Records, 1661 Air Force Pentagon, Washington, DC 20330–1661.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the Executive Secretary, Air Force Board for the Correction of Military Records, Headquarters, United States Air Force, 1661 Air Force Pentagon, Washington, DC 20330–1661.

Request for review must provide applicant's full name, Social Security Number, and AFBCMR docket number (if known). Reviews are held in Suite 201, 1745 Jefferson Davis Highway, Arlington, VA, between the hours of 0900 to 1600. An applicant must present a personal identification document. A

designated representative must present a letter of authorization from the applicant.

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records and for contesting and appealing initial agency determinations are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information is obtained from applicants, Air Force offices and/or other Government agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F050 AFSC A

SYSTEM NAME:

Systems Acquisition Schools Student Records, *(February 22, 1993, 58 FR 10393).*

CHANGES:

SYSTEM IDENTIFIER:

Change system identifier to 'F050 AFMC A.'

* * * * *

SYSTEM LOCATION:

Delete entry and replace with 'Air Force Materiel Command, Systems Acquisition School, 6575th School Squadron, Brooks Air Force Base, TX 78235–5000.'

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Add to end of entry 'and E.O.9397.'

* * * * *

F050 AFMC A

SYSTEM NAME:

Systems Acquisition Schools Student Records.

SYSTEM LOCATION:

Air Force Materiel Command, Systems Acquisition School, 6575th School Squadron, Brooks Air Force Base, TX 78235–5000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty military personnel, DOD civilian employees, contractor personnel, Air National Guard and Air Force and Army Reserve personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Student record includes personnel locator information, individual academic standings, subjects studied, hours, final grades, graduation data and related training data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force: Powers and duties; delegation by, as implemented by Air Force Regulation 50–5, USAF Formal Schools (Policy, Responsibilities, General Procedures, and Course Announcements); and E.O. 9397.

PURPOSE(S):

Record individual attendance, grades and locator information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in paper form, on computer and computer output products, and microfilm.

RETRIEVABILITY:

Retrieved by name and Social Security Number.

SAFEGUARDS:

Records are accessed by the custodian of the record system and by persons responsible for servicing the records in performance of their official duties. Records are stored in locked cabinets and rooms. Those in computer storage devices are protected by computer system software.

RETENTION AND DISPOSAL:

All records are retained for five years, then retired to the Washington National Records Center for an additional 25 years. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning. Computer records are destroyed by erasing, deleting or overwriting.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, 6575th School Squadron, Brooks Air Force Base, TX 78235–5000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on themselves should address inquiries to the Commander, 6575th School Squadron, Brooks Air Force Base, TX 78235–5000.

Name, Social Security Number or course number is required to identify files.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commander, 6575th School Squadron, Brooks Air Force Base, TX 78235–5000.

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records and for contesting and appealing initial agency determinations are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Data is obtained from the individual, existing personnel records, testing and performance at the school.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F067 AFSC A

SYSTEM NAME:

Equipment Maintenance Management Program (EMMP), *(February 22, 1993, 58 FR 10416).*

CHANGES:

SYSTEM IDENTIFIER:

Change system identifier to 'F067 AFMC A.'

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F067 AFMC A

SYSTEM NAME:

Equipment Maintenance Management Program (EMMP).

SYSTEM LOCATION:

Aeronautical Systems Division, Computer Center, Wright-Patterson Air Force Base, OH 45433–6503.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military and civilian personnel in Aeronautical Systems Division, Air Force Avionics Laboratory, Air Force Flight Dynamics Laboratory, Air Force Aero Propulsion Laboratory, Air Force Materials Laboratory, Air Force Human Resources Laboratory and Aerospace Medical Research Laboratory at Wright-Patterson Air Force Base, having custody of high value precision measurement equipment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Equipment maintenance management data on equipment signed out to individuals by equipment item number, model number, date checked out, office symbol, calibration due date, user Social Security Number and name.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force: Powers and duties; delegation by; and E.O. 9397.

PURPOSE(S):

Maintain maintenance and management control of high value equipment including issuance, security and storage, and recalibration.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in computer and computer output products.

RETRIEVABILITY:

Records may be retrieved by custodian name and Social Security Number or by equipment ID number and manufacturer.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Those in computer storage devices are protected by computer system software.

RETENTION AND DISPOSAL:

Printouts are kept up to a two weeks maximum and then destroyed by tearing into pieces, shredding, pulping, macerating or burning. Computer records are destroyed by erasing, deleting or overwriting.

SYSTEM MANAGER(S) AND ADDRESS:

Air Force Wright Aeronautical Laboratory, Logistics Office, Assistant for Operations, Wright-Patterson Air Force Base, OH 45433–6503.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on themselves should address inquiries to the Air Force Wright Aeronautical Laboratory, Logistics Office, Assistant for Operations, Wright-Patterson Air Force Base, OH 45433—6503.

Requesting individuals will be required to supply full name and office symbol or name of immediate supervisor for telephone requests; full name, driver's license or identification card for personal visits.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the Air Force Wright Aeronautical Laboratory, Logistics Office, Assistant for Operations, Wright-Patterson Air Force Base, OH 45433–6503.

Driver's license or identification card required for personal visits.

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records and for contesting and appealing initial agency determinations are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individuals and automated systems interface.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F080 AFSC A

SYSTEM NAME:

Aeromedical Research Data, *(February 22, 1993, 58 FR 10422).*

CHANGES:

SYSTEM IDENTIFIER:

Change system identifier to 'F080 AFMC A.'

* * * * *

STORAGE:

Delete entry and replace with 'Maintained in microfilm jackets and microfilm rolls, in paper files, in computers and on output products.'

* * * * *

SAFEGUARDS:

Delete entry and replace with 'Records are accessed by person(s) responsible for servicing the record system in performance of their official duties, and by authorized medical personnel and scientists who are properly screened and cleared for need-to-know. Computer patient records retrievable from remote terminals are protected from unauthorized access or alteration by a data management system which requires a password for access to an authorized subset of data. When appropriate for research purposes, the database management system permits scientists to examine patient records without revealing the unique patient identifiers. Records are stored in locked rooms and cabinets. Those in computer storage devices are protected by computer system software.'

RETENTION AND DISPOSAL:

Delete entry and replace with 'Destroy paper and microfilm files when no longer needed or after 25 years. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning. Computer records are destroyed by erasing, deleting or overwriting.'

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F080 AFMC A

SYSTEM NAME:

Aeromedical Research Data.

SYSTEM LOCATION:

Aerospace Medical Division, Brooks Air Force Base TX 78235–5320.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Personnel receiving medical evaluation from Department of Defense medical facilities.

Participants in epidemiologic studies sponsored by agencies of the Department of Defense, Federal Aviation Administration, Veterans Administration, The National Institutes of Health, National Research Council, and Occupational Safety and Health Administration.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical evaluations, demographic and mortality data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 55, Medical and Dental Care; and E.O. 9397.

PURPOSE(S):

Data is used for aeromedical research, fitness for duty determination and medical care.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Individually identifiable records are used by medical authorities and consultants of the Department of Defense and Federal Aviation Administration to determine that individual's fitness for duty.

Data on foreign personnel are used by the corresponding authority in that individual's country to determine their fitness for duty.

An individual's record is used by medical personnel to deliver medical care to that patient.

Aeromedical research data are used by scientists working with agencies of the Department of Defense, Federal Aviation Administration, Department of Veterans Affairs, The National Institutes of Health, National Research Council, and Occupational Safety and Health Administration to determine medical criteria for duty and to develop methods to prevent disease and disability.

The 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in microfilm jackets and microfilm rolls, in paper files, in computer and on computer output products.

RETRIEVABILITY:

Retrieved by name or Social Security Number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties, and by authorized medical personnel and scientists who are properly screened and cleared for need-to-know. Computer patient records retrievable from remote terminals are protected from unauthorized access or alteration by a data management system which requires a password for access to an authorized subset of data. When appropriate for research purposes, the database management system permits scientists to examine patient records without revealing the unique patient identifiers. Records are stored in locked rooms and cabinets. Those in computer storage devices are protected by computer system software.

RETENTION AND DISPOSAL:

Destroy paper and microfilm files when no longer needed or after 25 years. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning. Computer records are destroyed by erasing, deleting or overwriting.

SYSTEM MANAGER(S) AND ADDRESS:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commander, Aerospace Medical Division, Brooks Air Force Base, TX 78235–5320.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on themselves should address inquiries to the Commander, Aerospace Medical Division, Brooks Air Force Base, TX 78235–5320.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the Commander, Aerospace Medical Division, Brooks Air Force Base, TX 78235–5320.

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records and for contesting and appealing initial agency determinations are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information obtained from subject of the record, military personnel records and other medical records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F125 AFSC A

SYSTEM NAME:

Badge and Vehicle Control Records, *(February 22, 1993, 58 FR 10452).*

CHANGES:

SYSTEM IDENTIFIER:

Change system identifier to 'F125 AFMC A.'

SYSTEM LOCATION:

Delete entry and replace with 'Headquarters Air Force Materiel Command/SP, Wright-Patterson Air Force Base, OH 45433–5320; Air Force Materiel Command bases. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.'

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete 'AFSC' and insert 'Air Force Materiel Command (AFMC).'

* * * * *

RETENTION AND DISPOSAL:

Add to end of entry 'Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning. Computer records are destroyed by erasing, deleting or overwriting.'

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'Headquarters Air Force Materiel Command/SP, Wright-Patterson Air Force Base, OH 45433–5320, or the Chief of Security Police at AFMC installations. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.'

NOTIFICATION PROCEDURE:

Delete entry and replace with 'Individuals seeking to determine whether this system of records contains information on themselves should address inquiries to Headquarters Air Force Materiel Command/SP, Wright-Patterson Air Force Base, OH 45433–5320, or Chief of Security Police at AFMC installations. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.'

RECORD ACCESS PROCEDURES:

Delete entry and replace with 'Individuals seeking to access records about themselves contained in this system should address requests to Headquarters Air Force Materiel Command/SP, Wright-Patterson Air Force Base, OH 45433–5320, or Chief of Security Police at AFMC installations. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.'

F125 AFMC A

SYSTEM NAME:

AFMC Badge and Vehicle Control Records.

SYSTEM LOCATION:

Headquarters Air Force Materiel Command/SP, Wright-Patterson Air Force Base, OH 45433–5320 and Air Force Materiel Command bases. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force Materiel Command (AFMC) military and civilian personnel and visitors to AFMC headquarters and installations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Badge and vehicle control records to include name; home address; home telephone; citizenship; grade or rank; Social Security Number; clearance level; company employed by; military address; vehicle state license tag data; vehicle make, year, type and color; decal number; revoked license status.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force: Powers and duties; delegation by, and E.O. 9397.

PURPOSE(S):

Badge records are used to record building/area entry credential information, including information on the loss or theft of these credentials.

Motor vehicle records are used to identify vehicles parked in an unsafe manner, enforce vehicle flow plan, notify owners in case of evacuation and maintain effective security plan.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in computers and computer output products, and in paper form.

RETRIEVABILITY:

Records are retrieved by Social Security Number.

SAFEGUARDS:

Records are accessed by persons responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets, locked rooms, or buildings with controlled entry. Computer records are controlled by computer system software.

RETENTION AND DISPOSAL:

Badge records are destroyed immediately after badge is permanently surrendered or confiscated. Vehicle records are destroyed immediately after termination of registration. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning. Computer records are destroyed by erasing, deleting or overwriting.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters Air Force Materiel Command/SP, Wright-Patterson Air Force Base, OH 45433–5320, or Chief of Security Police at AFMC installations. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on themselves should address inquiries to Headquarters Air Force Materiel Command/SP, Wright-Patterson Air Force Base, OH 45433–5320, or Chief of Security Police at AFMC installations. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to Headquarters Air Force Materiel Command/SP, Wright-Patterson Air Force Base, OH 45433–5320, or Chief of Security Police at AFMC installations. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records and for contesting and appealing initial agency determinations are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information obtained from individuals and from automated system interface.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F168 AF SG A

SYSTEM NAME:

Automated Medical/Dental Record System, *(February 22, 1993, 58 FR 10465).*

CHANGES:

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STORAGE:

Data maintained primarily on magnetic tape or disks. May also be maintained in file folders, in computers and on computer output products, punch cards, and on roll microfilm or microfiche.

RETRIEVABILITY:

Retrieved by Social Security Number. May also be retrieved by sponsor's Social Security Number in combination with the family member prefix; by name, or by inpatient register number, laboratory accession number, or pharmacy prescription number.

* * * * *

F168 AF SG A

SYSTEM NAME:

Automated Medical/Dental Record System.

SYSTEM LOCATION:

At Air Force medical centers, hospitals and clinics, major command headquarters and separate operating agency headquarters; Air Force Data Service Center, Air Force Medical Service Center, USAF School of Aerospace Medicine, and USAF School of Health Care Sciences. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual who is hospitalized in, is dead on arrival at, or has received medical or dental care at an Air Force medical treatment facility.

Individuals who have received medical care at other DOD or civilian medical facilities but whose records are maintained at or processed by Air Force medical facilities.

Any military active duty member who is on an excused-from-duty status, on quarters, or subsistence elsewhere, on convalescent leave, meets Medical Evaluation Board (MEB), or a Physical Evaluation Board (PEB), on an outpatient basis or who is hospitalized in a non-federal hospital and for whom an Air Force medical facility has assumed administrative responsibility.

Any individual who has undergone medical or dental examinations at any Air Force medical facility (or whose records are maintained or processed by the Air Force), e.g., pre-employment examinations and food handlers examinations, or who has otherwise had medical or dental tests performed at any Air Force medical facility.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files consist of automated records of treatment received and medical/dental test performed on an inpatient/ outpatient basis in military medical treatment facilities and of military members treated in civilian facilities. These records may include radiographic images and reports, electrocardiographic tracings and reports, laboratory test results and reports, blood gas analysis reports, occupational health records, dental radiographic reports and records, automated cardiac catheterization data and reports, physical examination reports, patient administration and scheduling reports, pharmacy prescriptions and reports, food service reports, hearing conservation tests, cardiovascular fitness examinations and reports, reports of medical waivers granted for flight duty, and other inpatient and outpatient data and reports. They may contain information relating to medical/ dental examinations and treatments, inoculations, appointment and scheduling information, and other medical and/or dental information. Subsystems of the Automated Medical/Dental Data System include: Air Force Clinical Laboratory Automation System (AFCLAS); Automated Cardiac Catheterization Laboratory System (ACCLS); Computer Assisted Practice of Cardiology (CAPOC) System; DATA STAT Pharmacy System (formerly PROHECA); Occupational Health and Safety System;

Patient Appointment and Scheduling System (PAS); Tri-Laboratory System (TRILAB); Tri-Pharmacy System; Tri-Radiology System (TRIRAD); Health Evaluation and Risk Tabulation (HEART).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 55, Medical and Dental Care, and E.O. 9397.

PURPOSE(S):

Used as a record of patient's medical/dental health, diagnosis, and treatment and disposition while authorized care.

Used to help determine individual's qualification for duty, for security clearances and for assignments.

Used by an individual or his legal representative for further medical care, legal purposes, or other uses such as insurance requests or compensation and other health care providers for further care of the patient, research teaching, and legal purposes.

Used by medical treatment facility staff for evaluation of staff performance in the care rendered; for preparation of statistical reports; for reporting communicable diseases and other conditions required by law to federal and state agencies.

Used by Army, Navy, Department of Veterans Affairs, Public Health Service or civilian hospitals for continued medical care of the patient.

Used by insurance companies, (only with the patient's written consent for release, except as authorized in 10 U.S.C. 1095; for arbitrating insurance claims.

Used by other federal agencies such as Department of Veterans Affairs and Department of Labor (workmen's compensation) for adjudication of claims; for reporting communicable diseases or other conditions required by law.

Used to provide input to other DOD medical records systems including the Medical Record System (F168 AF SG C), the Dental Personnel Actions (F162 SG A), and other DOD agencies (e.g., Army Navy) when such agency is normally the primary source or repository of medical information about the individual.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The 'Blanket Routine Uses' published at the beginning of the agency's compilation of record system notices apply to this system, except as stipulated in *'Note'* below.

Information from the inpatient or outpatient medical records of retirees and dependents may be disclosed to third party payers in accordance with 10 U.S.C. 1095 as amended by Pub. L. 99–272, for the purpose of collecting reasonable inpatient/outpatient hospital care costs incurred on behalf of retirees or dependents. In addition, records may be disclosed to:

(1) Officials and employees of the Veterans Administration in the performance of their official duties relating to the adjudication of veterans claims and in providing medical care to members of the Air Force.

(2) Officials and employees of other departments and agencies of the Executive Branch of government upon request in the performance of their official duties relating to review of the official qualifications and medical history of applicants and employees who are covered by this record system and for the conduct of research studies.

(3) Private organizations (including educational institutions) and individuals for authorized health research in the interest of the Federal government and the public. When not considered mandatory, patient identification data shall be eliminated from records used for research studies.

(4) Officials and employees of the National Research Council in cooperative studies of the National History of Disease; of prognosis and of epidemiology. Each study in which the records of members and former members of the Air Force are used must be approved by the Surgeon General of the Air Force.

(5) Officials and employees of local and state governments and agencies in the performance of their official duties pursuant to the laws and regulations governing local control of communicable diseases, preventive medicine and safety programs, child abuse and other public health and welfare programs.

(6) Authorized surveying bodies for professional certification and accreditation.

(7) The individual's organization or government agency as necessary when required by Federal statute, Executive Order, or by treaty.

NOTE: Records of identity, diagnosis, prognosis or treatment of any client/patient, irrespective of whether or when he/she ceases to be a client/patient, maintained in connection with the performance of any alcohol/drug abuse, family advocacy, AIDS, or sickle cell prevention and treatment function conducted, requested, or directly or indirectly assisted by any department or agency of the United States, shall, except as provided herein, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 42 U.S.C. 290dd–3, 290ee–3, 42 U.S.C. 4582 and 5 U.S.C. 552. These statutes take precedence over the Privacy Act of 1974 in regard to accessibility of such records except to the individual to whom the record pertains. The Department of the Air Force 'Blanket Routine Uses' do not apply to these records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data maintained primarily on magnetic tape or disks. May also be maintained in file folders, in computers and on computer output products, punch cards, and on roll microfilm or microfiche.

RETRIEVABILITY:

Retrieved by Social Security Number. May also be retrieved by sponsor's Social Security Number in combination with the family member prefix; by name, or by inpatient register number, laboratory accession number, or pharmacy prescription number.

RETENTION AND DISPOSAL:

Computer files are retained for variable lengths of time depending upon the type of information involved and the size and mission of the medical treatment facility. Retention time may vary from one day to ten years. Records are disposed of by erasure of the magnetic computer records and destruction of the computer related worksheets on paper, film, or other media by tearing, shredding, pulping, burning or other destructive methods. Identical medical/dental information may be retained for longer periods of time in other medical records systems (such as inpatient or outpatient charts), including the Medical Record System (F168 AF SG C) and Dental Personnel Actions (SG 162 SG A).

SYSTEM MANAGER(S) AND ADDRESS:

Major command and field operating agency headquarters and Air Force Medical Service Center; commanders of United States Air Force medical centers; United States Air Force School of Health Care Sciences; Aerospace Medical Division, Brooks Air Force Base, TX, and the United States Air Force School of Aerospace Medicine, Brooks Air Force Base, TX. Official mailing addresses are published as an appendix to the Air Force's compilation of systems notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains

information about themselves should address inquires to the appropriate system manager. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system should address requests to the appropriate system manager. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

Requests should include complete name (including maiden name), sponsor's name, Social Security Number or Service Number of person through whom eligibility is established, category of record desired, year in which treatment was provided, whether treatment was inpatient or outpatient. If the individual establishes eligibility through a sponsor other than self, the request should include the relationship to the sponsor, e.g., spouse, second oldest child, parent, etc.

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records and for contesting and appealing initial agency determinations are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information is obtained directly from the individual whenever practical and possible; from other individuals when necessary, e.g., when the patient is a child or is in coma; from other medical institutions; from automated systems interfaces; from medical records, and from patient interactions with physicians and other health care providers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F205 AFIS A

SYSTEM NAME:

Sensitive Compartmented Information Personnel Records, *(February 22, 1993, 58 FR 10503).*

CHANGES:

SYSTEM IDENTIFIER:

Change system identifier to 'F205 AFISA A.'

SYSTEM LOCATION:

Delete entry and replace with 'Personnel Security Division, Directorate of Security and Communications Management, Air Force Intelligence Support Agency, 1816 North Moore Street, Suite 400, Arlington, VA 22209–1809.'

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'Director of Security and Communications Management, Air Force Intelligence Support Agency, 1816 North Moore Street, Suite 400, Arlington, VA 22209–1809.'

NOTIFICATION PROCEDURE:

Delete entry and replace with 'Individuals seeking to determine whether this system of records contains information on themselves should address inquiries to the Director of Security and Communications Management, Air Force Intelligence Support Agency, 1816 North Moore Street, Suite 400, Arlington, VA 22209–1809.'

RECORD ACCESS PROCEDURES:

Delete entry and replace with 'Individuals seeking to access records about themselves contained in this system should address requests to the Director of Security and Communications Management, Air Force Intelligence Support Agency, 1816 North Moore Street, Suite 400, Arlington, VA 22209–1809.'

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F205 AFISA A

SYSTEM NAME:

Sensitive Compartmented Information Personnel Records.

SYSTEM LOCATION:

Personnel Security Division, Directorate of Security and Communications Management, Air Force Intelligence Support Agency, 1816 North Moore Street, Suite 400, Arlington, VA 22209–1809.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force personnel, civil service employees, consultants, and contractor personnel with current access to SCI or who have had such access within past fifteen years except Air Force personnel assigned to Central Intelligence Agency, Office of the Secretary of Defense/ Defense Agencies, Office of the Joint Chiefs of Staff, and the National Security Agency.

CATEGORIES OF RECORDS IN THE SYSTEM:

Statements of Personnel History and allied papers prepared or submitted by individuals; statements by commanders, supervisors, medical, legal, and security officials, and related correspondence; Access Adjudication Records; Indoctrination Oaths; Termination Oaths; routine records/correspondence pertaining to access status or changes in status.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

E.O. 10450; as implemented by Air Force Regulation 205–32, USAF Personnel Security Program, and USAFINTEL 201–1; and E.O. 9397.

PURPOSE(S):

To recommend/determine eligibility for access to SCI. Used to verify an individual's status with respect to SCI access or eligibility for such access.

To answer official inquiries involving an individual's eligibility/noneligibility for access to SCI.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Only the 'fact of' an individual's eligibility/noneligibility for SCI access is furnished to other authorized government agencies/activities and only upon request.

The 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and on microfiche.

RETRIEVABILITY:

Retrieved by name, Social Security Number, and grade or rank.

SAFEGUARDS:

Records are accessed by custodian of the record system and person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets.

RETENTION AND DISPOSAL:

Active records maintained as long as an individual is authorized access to SCI. Upon termination of access record is placed in inactive status where it is retained for fifteen years and then destroyed unless sooner returned to active status. Destruction is by burning or shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Security and Communications Management, Air Force Intelligence Support Agency, 1816 North Moore Street, Suite 400, Arlington, VA 22209–1809.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on themselves should address inquiries to the Director of Security and Communications Management, Air Force Intelligence Support Agency, 1816 North Moore Street, Suite 400, Arlington, VA 22209–1809.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the Director of Security and Communications Management, Air Force Intelligence Support Agency, 1816 North Moore Street, Suite 400, Arlington, VA 22209–1809.

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records and for contesting and appealing initial agency determinations are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Personnel Background Investigations conducted by Defense Investigative Service and/or Air Force Office of Special Investigations; statement of commanders, supervisors and medical, legal and security officials; records of adjudication processes.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Portions of this system of records may be exempt from certain provisions of 5 U.S.C. 552a(k)(2) and (k)(5), as applicable.

An exemption rule for this record system has been promulgated in accordance with the requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 806b. For additional information contact the system manager.

F205 AFSC A

SYSTEM NAME:

Space Human Assurance and Reliability Program (SHARP), *(February 22, 1993, 58 FR 10504).*

CHANGES:

SYSTEM IDENTIFIER:

Change system identifier to 'F205 AFMC A.'

SYSTEM LOCATION:

Delete entry and replace with 'Headquarters Space Division, Los Angeles Air Force Base, CA 90009–2260; Headquarters Space and Missile Test Organization, Vandenberg Air Force Base, CA 93437–6021; Western Space Missile Center, Patrick Air Force Base, FL 32925–6215; Consolidated Space Test Center, Onizuka Air Force Base, CA 94088–3430, and Eastern Space Missile Center, Patrick Air Force Base, FL 32935–5003.'

* * * * *

RETENTION AND DISPOSAL:

Change 'AFR 12–50' to 'Air Force Regulation 4–20, Vol 2' in first sentence, and delete all other references to Air Force Regulation 12–50. Add to end of entry 'Computer records are destroyed by erasing, deleting or overwriting.'

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'Headquarters Space Division (HQ SD/CLFRX), Deputy Commander for Launch Operations, Plans and Operations Division, Los Angeles Air Force Base, CA 90009–2260;

Headquarters Space and Missile Test Organization (HQ SAMTO/XOO), SHARP Program Manager, Onizuka Air Force Base, CA 94088–3430;

Western Space Missile Center (WSMC/SP), SHARP Administrator, Patrick Air Force Base, FL 32925–6215;

Consolidated Space Test Center (CSTC/VOB), SHARP Administrator, Onizuka Air Force Base, CA 94088–3430; and

Eastern Space Missile Center (ESMC/SPI), SHARP Administrator, Patrick Air Force Base, FL 32935–5003.'

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F205 AFMC A

SYSTEM NAME:

Space Human Assurance and Reliability Program (SHARP).

SYSTEM LOCATION:

Headquarters Space Division, Los Angeles Air Force Base, CA 90009–2260;

Headquarters Space and Missile Test Organization, Vandenberg Air Force Base, CA 93437–6021;

Western Space Missile Center, Patrick Air Force Base, FL 32925– 6215;

Consolidated Space Test Center, Onizuka Air Force Base, CA 94088–3430; and

Eastern Space Missile Center, Patrick Air Force Base, FL 32935–5003.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military, civilian service, and contractor personnel who require SHARP certification for unescorted entry to specified space launch and operations related facilities or areas at certain Air Force or National Aeronautics and Space Administration (NASA) installations or activities or for assignment to designated sensitive space launch and operations positions at such installations or facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documentation used to request certification, to include the applicant's name, Social Security Number, date and place of birth, level of security investigation, medical, financial, and arrest information, and data pertaining to the applicant's certification, such as date of certification, date certification suspended, withdrawn, or denied (as appropriate) and date recertification required.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

50 U.S.C. 979, Internal Security Act of 1950; 5 U.S.C. 301, Departmental regulations; 10 U.S.C. 8013, Secretary of the Air Force: Powers and duties; Delegation by: and E.O. 9397. 32 CFR 809a.1, Enforcement of Order at Air Force Installations, Air Force Regulations 127–2, 3–6 and 4–4, US Air Force Mishap Prevention Program; Space Division Regulation 55–3, Space Human Assurance and Reliability Program (SHARP).

PURPOSE(S):

To obtain background information for investigative and evaluative purposes for use in making human/personnel reliability determinations under SHARP regarding personnel (a) seeking unescorted entry to specified space launch and operations related facilities or areas at certain Air Force or National Aeronautics and Space Administration (NASA) installations or activities, or (b) occupying sensitive positions related to space launch and operations designated by the commander of such installations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To federal, state, or local government investigative agencies if necessary to obtain information for a human/personnel reliability determination; to NASA concerning its making, issuing, or retaining a human/personnel reliability determination regarding unescorted entry to specified space launch and operations related facilities or areas, or assignment to designated sensitive positions related to space launch and operations activities.

The 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, binders, card files, and computer files and computer products.

RETRIEVABILITY:

Retrieved by name and Social Security Number.

SAFEGUARDS:

Records are accessed by the custodian of the records system and by personnel responsible for maintaining and updating the record system in performing their official duties. Such personnel are screened and cleared for access to SHARP data on a need-to-know basis. Records are stored in locked cabinets or file containers. Computerized files reflecting the identify and program status of applicants for SHARP certification are protected against unauthorized access. Computers containing such data are located in controlled access areas or otherwise secured so as to preclude unauthorized access.

RETENTION AND DISPOSAL:

Records are destroyed in accordance with Air Force Regulation 4–20, Vol 2. Unit requests for investigation or unescorted entry are destroyed when no longer needed. Completed personal history statement or comparable forms at units of assignment are destroyed when an individual's employment is terminated. Documents are shredded pulped, or burned to preclude the disclosure of Privacy Act Information. Computer records are destroyed by erasing, deleting or overwriting.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters Space Division (HQ SD/CLFRX), Deputy Commander for Launch Operations, Plans and Operations Division, Los Angeles Air Force Base, CA 90009–2260;

Headquarters Space and Missile Test Organization (HQ SAMTO/XOO), SHARP Program Manager, Onizuka Air Force Base, CA 94088–3430;

Western Space Missile Center (WSMC/SP), SHARP Administrator, Patrick Air Force Base, FL 32925–6215;

Consolidated Space Test Center (CSTC/VOB), SHARP Administrator, Onizuka Air Force Base, CA 94088–3430; and

Eastern Space Missile Center (ESMC/SPI), SHARP Administrator, Patrick Air Force Base, FL 32935–5003.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the system manager or the system location where the requester applied for SHARP certification.

Requesters should identify themselves by name and Social Security Number to facilitate access.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the system manager or to the system location where the requester applied for SHARP certification.

For personal visits, the requester may be asked to show a valid identification card, a driver's license, or some similar proof of identify.

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records and for contesting and appealing initial agency determinations are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information is provided by the individual, his/her supervisor and the servicing security police organization; various federal, state, and local investigating agencies; and the local SHARP Administrator or equivalent NASA official.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 93–11917 Filed 5–24–93; 8:45 am]

BILLING CODE 5000–04–F

Department of the Navy

Record of Decision to Renovate Existing Facilities and Construct New Facilities for Base Realignment at Naval Air Warfare Center Aircraft Division, Patuxent River, MD

Pursuant to section 102(2)C of the National Environmental Policy Act (NEPA) of 1969 and Council on Environmental Quality Regulations (40 CFR parts 1500-1508), the Department of the Navy announces its decision to construct new facilities and renovate existing facilities in support of the realignment of Naval Air Warfare Center Aircraft Division (NAWC AD) at Patuxent River, Maryland. The realignment and relocation of the operations and associated personnel from Warminster, Pennsylvania, and Trenton, New Jersey, is to be implemented as a matter of law under the Defense Base Closure and Realignment Act of 1990. The facilities will accommodate those research and development operations at NAWC AD. Locations of preferred sites for facilities were identified in the Final Environmental Impact Statement (FEIS) which was made available to the public on April 9, 1993. The Draft Environmental Impact Statement (DEIS), which was made available December 18, 1992, evaluated alternative sites and the environmental impacts of the construction and operation of proposed new facilities and renovated buildings.

A no action alternative was not considered because the Defense Base Closure and Realignment Act exempts from the NEPA process the consideration of both the need for realigning the military installation as directed by the Commission, and the need for transferring functions to the designated receiving installation.

New building construction includes 852,000 square feet of facilities. Most of the new construction is in two building complexes known as the North Complex and the South Complex. The North Complex includes 259,000 square feet of office and computer space, conference rooms, receiving area, and a laboratory for underwater acoustic development research with lasers, sonar, and optics. The South Complex is approximately 521,000 square feet, and will be the primary location of scientific and engineering support service. The two new buildings at the South Complex will contain offices and project planning space, engineering support services, materials testing and coatings laboratories, and avionics laboratories.

An additional 72,000 square feet is needed for the aircraft modification facility, the microwave techniques facility, the ejection drop tower, and the arming/de-arming pad. In addition, approximately 270,000 square feet in twenty-three existing buildings will be renovated to accommodate relocated functions and personnel. Two buildings will have large additions, one is 15,000 square feet, and the other is 11,000 square feet.

Various siting alternatives for new buildings and testing facilities were developed and evaluated in the DEIS. These alternatives considered a variety of site criteria including operational needs, functional relationships with other operations at NAWC AD, and the potential for environmental impacts. Based on the initial concept of the north/south split of facilities, several siting options for the engineering complexes were examined. Of the twelve initial sites studied, seven were carried forward for detailed analysis. These sites were evaluated to identify sensitive and/or constraining

environmental features. The areas of study were land use/land cover determination, preliminary wetlands determination, archeological site assessment, determination of coastal zone management issues and Chesapeake Bay Critical Area regulations, determination of the potential for any threatened or endangered species in or near the alternative sites, and determination of whether any hazardous waste disposal or contamination may have occurred on the sites. Based on environmental and operational considerations the preferred sites for the North and South Complexes were chosen.

Alternative sites for special facilities, such as the microwave techniques facility, ejection drop tower, and arming/de-arming pad were also evaluated. These facilities have unique considerations relating to adjacent land uses, clear zones, potential impacts, and access requirements. The site chosen for the microwave techniques facility is located in an area formally used for housing; operation will result in no public hazards related to electromagnetic radiation. The ejection drop tower site is located in the southeastern part of the NAWC AD, south of Building 1387. An isolated site was chosen to provide minimal distraction to the test person in the tower seat, be in a secure area absent of noise, and be accessible to emergency medical personnel. Only one site met all requirements for the arming/de-arming pad.

All practicable means to avoid or minimize environmental impacts at NAWC AD have been adopted. Activities have been located in existing buildings as much as practicable, with some buildings requiring rehabilitation/remodeling. New facilities have been sited after extensive alternatives analysis, and the preferred sites result in the least environmental impact of all reasonable alternatives. Construction of proposed facilities will incorporate sedimentation and erosion control measures, and some facilities will have permanent water quality or sedimentation basins. The Maryland Department of Natural Resources agrees that the relocation and associated construction is consistent, to the maximum extent practicable, with Maryland's coastal zone policies. The North Complex, South Complex, ejection drop tower, arming/de-arming pad, and the aircraft modification facility have been sited in areas which have been previously disturbed. Three intersections on base will be reconstructed, and a part of Cedar Point Road will be widened. Improvements will accommodate the increased traffic to the South Complex and the North Complex, and, along with the new North Gate currently under construction, help mitigate traffic congestion offbase during peak use periods by redistributing gate use. Construction of the microwave techniques facility requires clearing approximately 52 acres of wooded area and disturbance of approximately 3.5 acres of wetlands. The other alternative site would have involved the clearing of approximately 69 acres of wooded area, approximately three acres of wetlands, and may have affected an archeological site. The U.S. Fish and Wildlife Service has concluded that the construction and operation will not affect federally listed threatened or endangered species. The Navy will conduct a survey to identify any buildings eligible for listing on the National Register of Historic Places prior to renovation activities, and will consult with Maryland Historical Trust and the Advisory Council on Historic Preservation to ensure protection of historic properties.

All required permits from the U.S. Army Corps of Engineers, Maryland Department of Transportation, and others will be obtained prior to construction and operation of the facilities. Navy will compensate for wetland losses by replacing wetlands at a ratio deemed satisfactory through the permitting process.

Impacts associated with the relocation of 2,700 personnel and their families have been addressed and thoroughly coordinated with the state and local governments and agencies. Approximately 1,700 school children will relocate to area schools, most of them (1,300) attending school in St. Mary's county. The state's capital funding and budgeting program with its annual review appears adequate to make necessary provisions in annual appropriation decisions. There are adequate utility capacities in the region to support the relocation. Potable water use in the region will increase about three percent over current withdrawal rates. Additional influent to area wastewater treatment plants is not expected to exceed facility capacities.

Community support such as police and fire protection must be increased to accommodate the new residents, however, this is not expected to impose a significant burden on the communities.

Comments received from the public on the DEIS included concerns about natural resources protection, groundwater protection, air quality, education, hazardous materials and waste, safety, transportation, types of laboratory research, wetlands, threatened and endangered species, historic and cultural resources, water and wastewater, recreation, solid waste, and animal control. All issues were addressed in the FEIS.

In addition, a comment letter on the FEIS was received from the Environmental Protection Agency, Region III. It reiterated concerns about wetlands mitigation, impacts to Prime and Unique Farmlands, safety and airspace issues for the microwave techniques facility, and mitigation for wooded areas. The Navy will commit to at least a 1:1 replacement ratio for wetlands which are filled as part of construction activities, however, the final scope of the mitigation plan and ratios will be worked out during the permitting process. Regarding Prime and Unique Farmlands, the Farmland Protection Policy Act applies only to farmland soils under agricultural production, and exempts activities for national defense from its requirements. However, the Navy strove to minimize impacts to these soils during the site alternatives evaluation. As a result of construction, only 10 acres of land under cultivation will be converted from agricultural production to urban use. The remaining 127 acres of "farmland soils" to be used for construction has historically been used for mission-related needs, and its use will not affect the agricultural inventory.

Regarding safety issues at the microwave techniques facility, the Navy iterates that the facility will meet the American National Standards Institute Safety Levels for Radio Frequency radiation and the Department of Defense safety criteria. In addition, the site is situated within the restricted airspace of NAWC AD, thus, operations will pose no threat to private or commercial aircraft. Finally, all proposed facilities were sited to avoid or minimize impacts to forested areas. In particular, the microwave techniques facility site will result in fewer woodland losses than the other site alternative. The Station will continue to support its active natural resource management program to reforest areas which place no constraints on its military mission.

Questions regarding the Environmental Impact Statement prepared for this action may be directed to Chesapeake Division, Naval Facilities Engineering Command, Washington Navy Yard, 901 M Street SE., Building 212, Washington, DC 20374–5018 (Attn: Mr. Mike Bryan), telephone (202) 433–3387.

Dated: May 19, 1993.

Elsie Munsell,

Deputy Assistant Secretary of the Navy (Environment and Safety).

Dated: May 20, 1993.

Michael P. Rummel,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 93–12334 Filed 5–24–93; 8:45 am]

BILLING CODE 3810–AE–M

CNO Executive Panel; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Emerging Technologies Task Force will meet June 17-18, 1993, from 8 a.m. to 5 p.m., at 4401 Ford Avenue, Alexandria, Virginia. This session will be closed to the public. The purpose of this meeting is to address naval technological response to changes in military warfare. The entire agenda for the meeting will consist of discussion of key issues regarding direction of technology and technologies necessary for Naval Forces in the role envisioned for them by ... From the Sea. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and are, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact: J. Kevin Mattonen, Executive Secretary to the Executive Panel, 4401 Ford Avenue, room 601, Alexandria, Virginia 22302-0268, Phone (703) 756-1205.

Dated: May 14, 1993.

Saundra K. Melancon,

Alternate Federal Register Liaison Officer.

[FR Doc. 93–12264 Filed 5–24–93; 8:45 am]

BILLING CODE 3810–AE–F

DEPARTMENT OF EDUCATION

National Education Goals Panel; Meeting

AGENCY: National Education Goals Panel: Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date and location of a forthcoming meeting of the National Education Goals Panel. This notice also describes the functions of the Panel. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATES: June 15, 1993 from 12:30 p.m. to 4:30 p.m.

ADDRESSES: Holiday Inn—Capitol, 550 C Street, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Public Information Officer, 1850 M Street, NW., Suite 270, Washington, DC 20036. Telephone: (202) 632–0952.

SUPPLEMENTARY INFORMATION: The National Education Goals Panel was created to monitor and report annually to the President, Governors and Congress on the progress of the nation toward meeting the six National Education Goals adopted by the President and Governors in 1989.

The meeting of the Panel is open to the public. The agenda includes discussion regarding the development of criteria for reviewing national content standards, consideration of a resolution on collegiate assessment, and a dialogue with state officials on developing state opportunity to learn standards.

Records are kept of all Panel proceedings, and are available for public inspection at the Office of the Goals Panel at 1850 M Street, NW., Suite 270, Washington, DC 20036, from the hours of 10 a.m. to 5 p.m.

Dated: May 20, 1993.

Ann V. Bailey,

Committee Management Officer, U.S. Department of Education.

[FR Doc. 93–12352 Filed 5–24–93; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Morgantown Energy Technology Center; Financial Assistance Solicitation Availability Notice (Cooperative Agreement)

AGENCY: Morgan Energy Technology Center, Department of Energy (DOE).

ACTION: Notice of the availability of a program research and development announcement.

SUMMARY: On or about June 17, 1993, the DOE, Morgantown Energy Technology Center, plans to issue a Program Research and Development Announcement (PRDA) No. DE–RA21–93MC30133 for the solicitation of applications in support of research and development entitled "Molten Carbonate Fuel Cells (MCFC) Production Design Improvement." Authority for the PRDA is the DOE Organization Act (Pub. L. 95–91 (42 U.S.C. 7101)) and the DOE Financial Assistance Regulations, 10 CFR part 600, subparts A and C. DOE anticipates award of up to two Cooperative Agreements with a project duration of approximately 60 months. Total estimated cost of the effort is $150,000,000; minimum cost-share is required at 20 percent; 30 percent is anticipated.

FOR FURTHER INFORMATION CONTACT: R. Diane Manilla, U.S. Department of Energy, Morgantown Energy Technology Center, P.O. box 880, Morgantown, WV 26505. Telephone: (304) 291–4086—PRDA No. DE–RA21–93MC30133.

SUPPLEMENTARY INFORMATION: The objective of this procurement is to support the activities necessary to bring a multi-fueled, integrated, simple, low-cost, modular, market-responsive MCFC power plant to the marketplace. The development program will be based on a commercialization plan, developed by the successful offerors, which demonstrates an intent to manufacture and package, demonstrate, and aggressively market MCFC power plants in the United States. The PRDA will culminate in the manufacture and construction of high-performance, low-cost, 500–2000 kW NG MCFC power plant module(s). Copies of the PRDA may be obtained by submitting a request to the address provided above. Telephone requests will *not* be honored.

Dated: May 17, 1993.

Louie L. Calaway,

Director, Acquisition and Assistance Division, Morgantown Energy Technology Center.

[FR Doc. 93–12354 Filed 5–24–93; 8:45 am]

BILLING CODE 6450–01–M

Award of a Cooperative Agreement, Noncompetitive Financial Assistance

AGENCY: Nevada Operations Office (DOE/NV) Department of Energy (DOE).

ACTION: Notice of noncompetitive financial assistance.

SUMMARY: DOE/NV announces that pursuant to the DOE Financial Assistance Rules, 10 CFR § 600.7(b)(2), it intends to award a cooperative agreement on a noncompetitive basis to the University of Nevada, Reno (UNR), to conduct scientific research projects unique to the national Environmental Resources Park at the Nevada Test Site (NTS).

The NTS has been formally dedicated as an Environmental Research Park under the Research Park System. Initiated by the DOE/NV management, this action fulfilled a number of objectives:

(1) Satisfied the spirit of the National Environmental Policy Act and enhanced

the ability of EOE/NV to comply with environmental regulations;

(2) Filled a significant gap within the existing DOE Research Park network as a national resource;

(3) Provided unique opportunities for research in an arid environment, both as an undisturbed site and as a disturbed site from past and current nuclear testing; and

(4) Complied with Secretary Watkins' interest in research parks for promoting DOE educational programs in science and engineering.

A Memorandum of Understanding has been signed between DOE and UNR directed at reaching national educational goals related to mathematics, science, engineering, and other related technical subjects. The purpose of this cooperative effort is to increase the number of students pursuing careers in science and science-related areas, to improve teaching in these fields, and to improve the scientific and technical literacy of Americans.

DOE/NV management envision that the educational systems nearest to the site will benefit the most from its resources, thus providing a public service to those communities surrounding the DOE/NV complex. This cooperative agreement with UNR, a part of the University of Nevada System, will provide educational and research opportunities for the students and faculty and technical support for the mission and programs of DOE/NV, thus benefitting both organizations.

PROJECT SCOPE: The following areas chosen for academic pursuit include areas in which DOE has a vital interest and can provide extensive technical assistance.

- Provide personnel, materials, supplies, equipment, and transportation to perform work on mutually agreed-upon projects.
- Establish an intern training program and other educational opportunities for students as well as continuing or specialized educational programs for engineers and senior technical personnel working at the NTS.
- Provide professors as project advisors to graduate students committed to research projects.
- Provide students with an academic program promoting DOE sanctioned research projects within such broad areas of study as: earth sciences, atmospheric sciences, sociology, archaeology, anthropology, biology, ecology, chemistry, classical physics, nuclear physics, engineering, and information management.
- Prepare quarterly progress reports on mutually agreed-upon research projects that encompass costs, schedule(s) and activities accomplished, and a final report on each project in the form of a thesis or paper acceptable for technical publication in a peer review journal.
- Assist in the preparation of all documentation required by DOE Orders, such as safety review, site access authorizations, engineering designs, construction criteria and a Quality Assurance Program, incident to project activities requiring the use of the NTS infrastructure.
- Assist in the preparation and development of data and records for the maintenance of an effective management system consistent with DOE Orders and the management system used by DOE/NV.
- Participate in periodic planning and status meetings with DOE/NV as required.

The project period for the cooperative agreement is a five year period expected to being June 1, 1993. The total estimated cost of this award is $2,000,000 over the five year project period.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Nevada Operations Office, ATTN: Fred Penrod, P.O. Box 98518, Las Vegas, NV 898193–8518.

Issued in Las Vegas, Nevada, on May 7, 1993.

Nick C. Aquilina,

Manager, DOE Nevada Operations Office.

[FR Doc. 93–12353 Filed 5–24–93; 8:45 am]

BILLING CODE 6450–01–M

Bonneville Power Administration

Floodplain Involvement for the Umatilla Hatchery Satellite Facilities Project

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of floodplain involvement.

SUMMARY: BPA proposes to construct hatchery support facilities in floodplains located in Umatilla County, Oregon. The purposes of these facilities are: (1) To increase survival of adult fish captured for broodstock; (2) to increase survival of juvenile salmonids reared at the Umatilla Hatchery by acclimating them to the waters of the Umatilla River prior to their release as smolts into the river; and (3) to improve access conditions at a direct release site.

In accordance with 10 CFR part 1022, BPA will prepare a floodplain assessment and will perform this proposed action in a manner so as to avoid or minimize potential harm to or within the affected floodplain.

DATES: Comments are due to the address below no later than June 14, 1993.

FOR FURTHER INFORMATION ON THIS PROPOSED ACTION, CONTACT: Comments and requests for further information should be addressed to: Mr. Roy Fox, PG, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208, Phone (503) 230–4261, FAX (503) 230–3752.

FOR FURTHER INFORMATION ON GENERAL DOE FLOODPLAIN/WETLAND ENVIRONMENTAL REVIEW REQUIREMENTS, CONTACT: Carl M. Borgstrom, Director, Office of NEPA Oversight, EH–25, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–4600 or (800) 472–2756.

SUPPLEMENTARY INFORMATION: The Umatilla Hatchery Program represents one part of a multiagency effort to restore the salmonid resources of the Umatilla River Basin. The restoration plan for the Umatilla Basin calls for habitat improvements, better fishery management, and a hatchery program. Stocks of spring and fall Chinook were extirpated in this Basin before 1957, and the population size of Steelhead was much reduced by overfishing, water withdrawal, changes in land use, and hydroelectric development.

The original design of the Umatilla Hatchery Program called for broodstock to be held at satellite facilities in the Umatilla Basin. However, water temperature conditions of the Umatilla Basin are not suitable for holding adult spring Chinook. In contrast, the water temperatures of the South Fork Walla Walla River, in Umatilla County, Oregon, are suitable for holding adult spring Chinook until they are ready to spawn. The site proposed as holding facilities for spring Chinook adults, near RKm 13 of the South Fork Walla Walla River, Umatilla County, Oregon, is within the 100-year floodplain. These facilities will be located on about 0.7 hectares (1.7 acres) of land.

The original design for the Umatilla Hatchery Program also called for a mix of acclimation ponds and direct release sites as the means of releasing juvenile salmonids reared at the Umatilla Hatchery into the Umatilla River. Current hatchery management theory advocates the release of juveniles through acclimation ponds to reduce stress, reduce nonadaptive behaviors, and enhance the opportunity for the hatchery fish to imprint on the conditions of the stream in which they are released. Accordingly, acclimation/

release facilities are proposed for all but one of the existing direct release sites in the Basin.

The acclimation facilities are to be constructed in such a manner as to allow the juveniles to leave the facility voluntarily when they have smolted. Thus, the fish that leave an acclimation site have had more opportunity to adapt to local water quality conditions, are ready to migrate, and are likely to exhibit a strong fidelity to the Umatilla River when they return as adults.

Excepting the Fred Grey site (0.7 hectare), all of the acclimation sites will be located on an area smaller than 0.35 hectares (about 1 acre). All of the proposed acclimation sites are located adjacent to an existing direct release site. Four of the six proposed sites are located within the 100-year floodplain. These sites are located near RKms 58, 69, 98, and 128 of the Umatilla River. In addition, BPA proposes to improve (widen and surface with gravel) the road to a direct release site; the road crosses the 100-year floodplain. This road terminates at the Umatilla River near RKm 142.

In accordance with DOE regulations for compliance with floodplain and wetlands environmental review requirements (10 CFR part 1022), BPA will prepare a floodplain assessment for this proposed action. After BPA issues the assessment, a floodplain statement of findings will be published in the Federal Register.

Maps and further information are available from BPA at the address shown above.

Issued in Portland, Oregon on May 14, 1993.

Randall W. Hardy,

Administrator

[FR Doc. 93–12355 Filed 5–24–93; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. CP93–338–000, et al.]

Questar Pipeline Co., et al.; Natural gas certificate filings

May 18, 1993.

Take Notice that the following filings have been made with the Commission:

1. Questar Pipeline Co.

[Docket No. CP93–338–000]

Take notice that on May 12, 1993, Questar Pipeline Company (Questar), 79 South State Street, Salt Lake City, Utah 84111 filed in Docket No. CP93–338–000, a request pursuant to 18 CFR 157.205 and 157.212(a) of the Commission's Regulations for authority to activate an existing 2-inch tap on Questar's transmission pipeline system and install related facilities required to use the existing tap as a delivery point to provide natural gas service to Mountain Fuel Supply Company (Mountain Fuel). Such request was made under the blanket certificate authorization issued in Questar's Docket No. CP82–491–000 pursuant to section 7(c) 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.

Questar states that the proposed tap activation is required to effect the delivery of natural gas to Mountain Fuel, under Rate Schedules CD–1 and X–33 of Questar's FERC Gas Tariff, for ultimate sale by Mountain Fuel to the communities of Cleveland and Elmo located in Emery County, Utah.

Questar also proposes to construct various metering regulating facilities at an estimated cost of $19,000. It is stated that the installation of the additional delivery point facilities will allow Questar to deliver up to approximately 500 Dth on a peak day and 6,500 Dth annually to Mountain Fuel, the location distribution affiliate of Questar.

Comment date: July 2, 1993, in accordance with Standard Paragraph G at the end of this notice.

2. Panhandle Eastern Pipe Line Co.

[Docket No. CP93–344–000]

Take notice that on May 13, 1993, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP93–344–000 a prior notice request with the Commission pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to operate under Section 7 of the NGA an existing delivery point and appurtenant facilities [which Panhandle constructed under Section 2311 of the Natural Gas Policy Act of 1978 (NGPA)] in Kingfisher County, Oklahoma, under the blanket certificate issued in Docket No. CP83–83–000 pursuant to Section 7 of the NGA, all as more fully set forth in the request which is open to the public for inspection.

Panhandle proposes to convert the authorization for the delivery point from Section 311 of the NGPA to Section 7 of the NGA in order to use the delivery point for transportation services rendered under Panhandle's blanket certificate granted in Docket No. CP86–585–000. Panhandle states that it currently uses the Kingfisher County delivery point and appurtenant facilities to deliver natural gas to Oklahoma Natural Gas Company (ONG) under Section 311 of the NGPA. Panhandle states that it would transport the gas at the request of Panhandle Trading Company for redelivery to ONG in Kingfisher County.

Comment date: July 2, 1993, in accordance with Standard Paragraph G at the end of this notice.

3. Granite State Gas Transmission, Inc.

[Docket No. CP93–342–000]

Take notice that on May 12,1993, Granite State Gas Transmission, Inc. (Granite State) 300 Friberg Parkway, Westborough, Massachusetts 01581, filed in Docket No. CP93–342–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to establish a new off-system delivery point in Monson, (Hampden County) Massachusetts, for deliveries to its affiliated distributor, Bay State Gas Company (Bay State) under its blanket certificate authorization issued in Docket No. CP82–515–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Granite State proposes to establish a new off-system delivery point to Bay State on the Tennessee system at Monson (Hampden County) Massachusetts.

Tennessee was authorized to construct the Monson delivery point pursuant to the certificate of public convenience and necessity in Docket No. CP89–629–003 as a new delivery point on its system. 54 FERC ¶ 61,103 (1991). The delivery point has been constructed and Tennessee has filed a request under the prior notice provisions of Section 157.212 of the Regulations under its blanket certificate in Docket No. CP93–263 to designate Monson as a delivery point to Granite State. This request is a mirror of Tennessee's request in which Granite State requests authorization to establish Monson as a delivery point to Bay State. No new facilities are required in connection with this request.

The Bay State lateral will also provide a transportation service for the cogeneration plant being constructed by MASSPOWER in Monson.

Comment date: July 2, 1993, in accordance with Standard Paragraph G at the end of this notice.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene

or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the date after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 93–12277 Filed 5–24–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. JD93–08520T; New Mexico–39]

United States Department of the Interior, Bureau of Land Management; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

May 19, 1993.

Take notice that on May 17, 1993, the United States Department of the Interior's Bureau of Land Management (BLM) submitted the above-referenced notice of determination pursuant to section 271.703(c)(3) of the Commission's regulations, that the Pictured Cliffs Formation in San Juan County, New Mexico, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The area of application covers approximately 4,191 acres consisting of 6.7% Fee, 10.5% State, and 82.8% Federal Lands described as follows:

Township 31 North, Range 9 West

Sections 18–20: All
Section 28: SW/4
Sections 29–30: All
Section 31: N/2
Section 32: All
Section 33: W/2

The notice of determination also contains BLM's and the New Mexico Department of Energy, Minerals, and Natural Resources' findings that the referenced portion of the Pictured Cliffs Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 93–12275 Filed 5–24–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP93–343–000]

Panhandle Eastern Pipe Line Co., Application

May 19, 1993.

Take notice that on May 13, 1993, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas, 77251–1642, filed in Docket No. CP93–343–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon an exchange and sales service with K N Energy, Inc. (K N), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Panhandle states that by Commission order issued June 19, 1970, in Docket Nos. CP70–243 and CP70–249 (43 FPC 925), as last amended at 28 FERC ¶62,058 (1984), Panhandle and K N are authorized, among other things, to make a gas-for-gas exchange whereby K N receives gas from Panhandle at a point downstream of the Douglas Compressor Station located in Converse County, Wyoming and K N concurrently delivers thermally equivalent volumes of gas to Panhandle at Panhandle's Aledo Plant in Dewey County, Oklahoma and at points of interconnect between the facilities of Panhandle and K N located in Texas County, Oklahoma and Grant County, Kansas. Such exchange is made in accordance with an agreement between Panhandle and K N dated March 27, 1970, as amended, which is on file with the Commission as Rate Schedule TSTE–1 of Panhandle's FERC Gas Tariff, Original Volume No. 2 and as Rate Schedule X–10 of K N's FERC Gas Tariff, Second Revised Volume No. 2.

Panhandle states that service under Rate Schedule TSTE–1 is no longer required and that in response to its letter dated December 23, 1992 to K N, K N has agreed to terminate the exchange service effective March 27, 1993. No facilities are proposed to be abandoned herein.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 9, 1993, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unncesssary for Panhandle to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 93–12276 Filed 5–24–93; 8:45 am]

BILLING CODE 6717–01–M

Project No. 2738–024 New York

New State Electric and Gas Corp.; Availability of Environmental Assessment

May 19, 1993.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR part 380 (Order No. 486, 52 FR 47910), the Office of Hydropower Licensing (OHL) has reviewed the application for a change in land rights at the Saranac River Project to convey in fee title approximately 36.5 acres of project lands to Clinton County for the purpose of expanding the County's existing landfill located adjacent to the project.

The staff of OHL's Division of Project Compliance and Administration prepared an Environmental Assessment (EA) for the proposed action. In the EA, the staff concludes that approval of the

application would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Reference and Information Center, room 3308, of the Commission's offices at 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 93–12272 Filed 5–24–93; 8:45 am]

BILLING CODE 6717–01–M

Public Outreach Meeting

May 19, 1993.

The Federal Energy Regulatory Commission is holding a roundtable discussion to familiarize licensees, agencies, and other interested parties with the Commission's hydropower relicensing program. This meeting will consist of a roundtable discussion with the Chair and members of the Commission, Office of Hydropower Licensing staff, and a broad spectrum of other participants, including federal and state agencies, public interest groups, trade associations, hydropower developers, and Native American tribes.

The public is invited to attend and observe the roundtable discussion in Washington DC, on Thursday, June 17, 1993, in a Commission room to be announced. The meeting will begin at 10 a.m.

The roundtable discussion will focus on a number of topics, including:

- Processing the Class of 1993 Applications.
- NEPA Documents.
- Cumulative Impacts.

We welcome your attendance at the upcoming outreach meeting. However, space is limited, and attendees will be seated first come first served. If you have any questions about the meeting, please call Fred Springer at (202) 219–2700.

Lois D. Cashell,

Secretary.

[FR Doc. 93–12271 Filed 5–24–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP93–334–000]

Arkla Energy Resources Co.; Application

May 18, 1993.

Take notice that on May 7, 1993, Arkla Energy Resources Company, (AERCo), Post Office Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP93–334–000 an application, supplemented on May 14, 1993, pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain facilities to provide sales service to Arkansas Louisiana Gas Company (ALG) for redelivery to domestic and commercial customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

AERCo specifically proposes to construct and operate a new one-inch tap and meter station on its transmission line F, for deliveries to ALG's new rural extension to serve domestic and commercial customers in Lincoln Parish, Louisiana. AERCo states that initially the facility would be used to provide service to a commercial customer's chicken house. AERCo estimates deliveries through the proposed facilities of 27 Mcf on a peak day and 2,590 annually. AERCo also estimates construction costs of $11,372, to be reimbursed by ALG.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 8, 1993, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate for the proposal 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 AERCo to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 93–12270 Filed 5–24–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP93–341–000]

Texas Gas Transmission Corp.; Application

May 19, 1993.

Take notice that on May 12, 1993, Texas Gas Transmission Corporation (Texas Gas), P.O. Box 1160, Owensboro, Kentucky 42302, filed in Docket No. CP93–341–000, an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon transportation services performed by Texas Gas for ANR Pipeline Company, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Texas Gas states that on April 23, 1983, it received an order in Docket No. CP83–219–000, *et al.* [23 FERC Paragraph 62,138 (1983)], authorizing Texas Gas to transport natural gas for ANR, to a gas processing plant owned and operated by Enron Louisiana Energy Company (Enron Louisiana), near Eunice, Louisiana (Eunice Plant). Under the transportation arrangement, Texas Gas was authorized to transport up to 500,000 Mcf per day of gas owned by ANR from ANR's Compressor Station at Eunice through 4,700 feet of pipeline owned by Texas Gas for delivery to the Eunice Plant for processing. ANR also states that it received authority in the same docket to construct approximately 4,700 feet of pipeline to connect the Eunice Plant with ANR's facilities, allowing for the return of the residue gas.

It is stated that ANR and Texas Gas have agreed to cancel the transportation arrangement certificated in Docket No. CP83–291–000, *et al.*, and have entered into new transportation arrangements authorized under Texas Gas' blanket certificate issued in Docket No. CP88–686–000, which have replaced the service performed under CP83–219–000, *et al.* Therefore, Texas Gas is requesting authority in the instant docket to abandon the transportation service authorized by the order issued April 29, 1983. Texas Gas states there is no abandonment of facilities contemplated or necessary.

Any person desiring to be heard or to make any protest with reference to said

application should on or before June 9, 1993, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Texas Gas to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 93–12273 Filed 5–24–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP93–345–000]

Williston Basin Interstate Pipeline Co.; Request Under Blanket Authorization

May 19, 1993.

Take notice that on May 13, 1993, Williston Basin Interstate Pipeline Company (Williston Basin), 200 North Third Street, Suite 300, Bismarck, North Dakota 58501, filed in Docket No. CP93–345–000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate three new delivery taps, three new metering stations and the associated appurtenant facilities for use in providing firm transportation service for delivery to Northern States Power Company (Northern States), under its blanket certificate issued in Docket Nos. CP82–487–000, *et. al.* pursuant to section 7 of Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Williston Basin states that it seeks authorization to construct and operate the facilities to provide the service to Northern States, a local distribution company, to serve new natural gas customers in the towns of Tower City, Oriska and Buffalo, North Dakota. It is further stated that the proposed facilities would be located on existing pipeline right-of-way.

Williston Basin says that the facilities to be constructed at each of the proposed metering stations would consist of a pipeline tap, a fence, a six foot by nine foot building, a turbine meter and miscellaneous regulators, gauges and valves. Williston Basin further says that the addition of the proposed facilities would have no significant effect on its peak day or annual requirements and that sufficient firm capacity exists on its system to serve these new natural gas markets.

Any person or the Commission's staff may, within 45 days after 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 therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 93–12274 Filed 5–24–93; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 4658–9]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before June 24, 1993. For further information or to obtain a copy of this ICR contact Sandy Farmer at EPA, (202) 260–2740.

SUPPLEMENTARY INFORMATION:

Office of Administration and Resources Management

Title: EPA Former Employee Survey (ICR No. 1645.01).

Abstract: This ICR is for a new collection of information in support of the EPA's Total Quality Management (TQM) initiative. This initiative challenges the EPA to develop more efficient and effective methods of doing business. As part of this initiative, EPA's Office of Administration and Resources Management (OARM) has developed a mail questionnaire to gather information voluntarily from former employees on the reasons they leave the EPA. This information is needed to provide feedback on the efficacy of our human resource services. OARM will use this develop strategies for retaining employees and adjusting work place conditions where it is possible.

Following an employee's departure from the Agency, a voluntary mail questionnaire will be sent to the former employee's address requesting information that includes: (1) General employment conditions (employee benefits, training, career advancement opportunities), (2) reasons why they joined EPA, (3) what expectations were or were not met by the EPA, and (4) reasons why they left the EPA.

Upon receipt of the completed questionnaires, OARM will tabulate and provide a general statistical summary to OARM's Quality Action Term (QAT). The QAT will use this information to develop course(s) of action that will improve the EPA's Human Resource Services. All responses will be held in strict confidence by OARM. There are no recordkeeping activities associated with this collection.

Burden Statement: Public reporting burden for respondents subject to this collection of information is estimated at 11 minutes per response including time for reviewing instructions, gathering

data, and completing and reviewing the collection of information.

Respondents: Former EPA employees that left the EPA voluntarily.

Estimated Number of Respondents: 500.

Estimated Number of Responses Per Respondent: 1.

Estimated Total Annual Burden on Respondents: 90 hours.

Frequency of Collection: One-time.

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223Y), 401 M Street, SW., Washington, DC 20460

and

Timothy Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th St., NW., Washington, DC 20503.

Dated: May 18, 1993.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 93–12369 Filed 5–24–93; 8:45 am]

BILLING CODE 6560–50–M

[4659–1]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before June 24,1993. For further information, or to obtain a copy of this ICR, contact Sandy Farmer at EPA (202) 260–2740.

SUPPLEMENTARY INFORMATION:

Office of Prevention, Pesticides and Toxic Substances

Title: Wood Preservatives—Submission of Information Regarding Arsenic Exposure Levels in Wood Treatment Plants (EPA ICR No. 1289.03; OMB # 2070–0081). This is a request for reinstatement of a previously approved collection.

Abstract: Under Section 6 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and according to the provisions of a final EPA position document, facilities that use inorganic arsenic to pressure treat wood must either monitor work areas for airborne concentrations of inorganic arsenic, or provide employees with respirators. Facilities are required to maintain records of monitoring results and submit them annually to the EPA. The Agency uses these data to determine whether the pressure treating facilities have the ambient air level for airborne inorganic arsenicals set by the provisions of the cancellation order. If the levels are met, the facility is exempted from the use of personal respirators during pressure treatment of lumber as required by registered pesticide labels.

In addition, owners or operators of facilities are invited to participate in the Permissible Exposure Limitation (PEL) program. The PEL program consists of a checklist containing six questions relating to production procedures. Facilities that participate in the PEL program—and have not changed production procedures in the pressure treating facility since submitting the PEL checklist to the EPA—are not required to repeat air monitoring testing.

Burden Statement: The public burden for this collection of information is estimated to average 3.45 hours per response for reporting and 20 minutes per recordkeeper annually. This estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, complete the form, and review the collection of information.

Respondents: Owners and operators of arsenical wood treatment plants.

Estimated No. of Respondents: 169.

Estimated No. of Responses Per Respondent: 1.

Estimated Total Annual Burden on Respondents: 642 hours.

Frequency of Collection: Annually.

Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223Y), 401 M Street, SW., Washington, DC 20460

and

Matthew Mitchell, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20503.

Dated: May 19, 1993.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 93–12374 Filed 5–24–93; 8:45 am]

BILLING CODE 6560–50–M

[FRL 4658–8]

Renewal of the Hazardous Waste Manifest Regulatory Negotiation Committee

AGENCY: Environmental Protection Agency.

ACTION: Notice; Renewal of federal advisory committee—Hazardous Waste Manifest Regulatory Negotiation Committee.

SUMMARY: As required by section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), we are giving notice of the renewal of the Hazardous Waste Manifest Regulatory Negotiation Committee. The Committee was formed in November, 1992 to assist in EPA's development of a rule to improve and standardize the present hazardous waste manifest system under RCRA section 7004. The Charter has been renewed through September 30, 1993. We have determined that renewal of this Committee is in the public interest and will assist the Agency in performing its duties prescribed in the Resource Conservation Recovery Act.

Copies of the Committee Charter have been filed with the appropriate committees of Congress and the Library of Congress.

The next meeting of the Committee is August 3 and 4, 1993. Notice will be published when the time and location of the next meeting is known.

FOR FURTHER INFORMATION CONTACT: Persons needing further information on substantive aspects of the hazardous waste manifest rule should call Rick Westlund, Office of Policy, Planning and Evaluation, U.S. EPA, (202) 260–2745. Summaries of previous meetings will be made available upon written request to the committee's facilitator, Suzanne Orenstein, Resolve, 1250 Twenty-fourth St. NW., suite 500, Washington, DC 20037.

Dated: May 19, 1993.

Deborah Dalton,

Designated Federal Official, Deputy Director, Consensus and Dispute Resolution Program, Office of Policy, Planning and Evaluation.

[FR Doc. 93–12370 Filed 5–24–93; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4659–6]

Access to Confidential Business Information by Labat-Anderson, Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized Labat-Anderson, Inc. (LAI) of Arlington, Virginia, for access to information which as been submitted to EPA under the environmental statutes administered by the Agency. Some of this information may be claimed or determined to be confidential business information (CBI).

DATES: Comments concerning CBI access will be accepted through June 1, 1993.

FOR FURTHER INFORMATION CONTACT: Brenda Daly, Environmental Protection Agency, Office of Information Resources Management, Management Planning and Evaluation Staff (PM–211M), 401 M Street, SW., Washington, DC 20460. Telephone (202) 260–2381.

SUPPLEMENTARY INFORMATION: Under EPA contract No. 68–W9–0052, LAI provides agency-wide information management support services to the Environmental Protection Agency for the operation of dockets, records management support programs, records centers, and file rooms in certain Headquarters, Regional, Laboratory, and other offices. In performing these tasks, LAI employees have access to Agency documents for purposes of document processing, filing, abstracting, analyzing, inventorying, retrieving, tracking, etc. The documents to which LAI has access potentially include all documents submitted under the Resource Conservation and Recovery Act, Clean Air Act, Clean Water Act, and Comprehensive Environmental Response, Compensation, and Liability Act. Some of these documents may contain information claimed as CBI.

Pursuant to EPA regulations at 40 CFR part 2, subpart B, EPA has determined that LAI requires access to CBI to perform the work required under the contract. These regulations provide for five days notice before contractors are given CBI. Such notice had not previously been given respect to LAI; this notice is intended to correct that error.

LAI is required by contract to protect confidential information. When LAI's need for the documents is completed, LAI will return them to EPA.

Dated: May 18, 1993.

Sallyanne Harper,

Acting Assistant Administrator for Administration and Resources Management.

[FR Doc. 93–12368 Filed 5–24–93; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–3097–EM]

Georgia; Amendment to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency for the State of Georgia, (FEMA–3097–EM), dated March 15, 1993, and related determinations.

EFFECTIVE DATE: May 14, 1993.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of an emergency declaration for the State of Georgia dated March 15, 1993, is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared an emergency by the President in his declaration of March 15, 1993:

Assistance is authorized for debris removal and emergency protective measures in the counties of: Butts, Candler, Dodge, Jeff Davis, and Pierce.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Richard W. Krimm,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 93–12330 Filed 5–24–93; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–991–DR]

Oklahoma; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Oklahoma, (FEMA–991–DR), dated May 12, 1993, and related determinations.

EFFECTIVE DATE: May 14, 1993.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Oklahoma dated May 12, 1993, is hereby amended to include the following areas among those areas determined have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 12, 1993:

The counties of Bryan, Canadian, Carter, Cleveland, Grady, Kay, Pottawatomie, Tulsa, and Washington for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Richard W. Krimm,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 93–12329 Filed 5–24–93; 8:45 am]

BILLING CODE 6718–02–M

Offer To Assist Insurers in Underwriting Flood Insurance Using the Standard Flood Insurance Policy

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Notice.

SUMMARY: The Federal Insurance Administration is publishing in this notice the Financial Assistance/Subsidy Arrangement for 1993–1994 governing the duties and obligations of insurers participating in the Write Your Own Program (WYO) of the National Flood Insurance Program (NFIP). The Financial Assistance/Subsidy Arrangement sets forth the responsibilities of the Government to provide financial and technical assistance to the insurers. It is verbatim with what is set out as appendix A to 44 CFR part 62 and is republished for information and convenience.

This notice relates to the final rule which was published in the Federal Register regarding changes in the National Flood Insurance Program's regulations dealing with the issuance of flood insurance policies and the adjustment of claims and the establishment of a program of assistance to private sector property insurance companies in underwriting flood insurance using the Standard Flood Insurance Policy. In 1985, a copy of the offer to participate in the Arrangement was incorporated in a final rule and, this year, as in the years since, a copy of the offer is being published as a Notice.

DATES: The offer is effective May 25, 1993. The Financial Assistance/Subsidy Arrangement is effective with respect to flood insurance policies written under

the Arrangement with an effective date of October 1, 1993, and later.

SUPPLEMENTARY INFORMATION: By way of background, the Federal Insurance Administration (FIA), working with insurance company executives, FEMA's Office of Financial Management and FEMA's Office of the Inspector General, addressed the operating and financial control procedures for the Write Your Own Program. The Statistical Plan (now the Transaction Record Reporting and Processing Plan), Accounting Procedures, and the Financial Control Plan were specifically referenced in the final rule, as amended, and, in addition, procedural manuals have been issued by the FIA in aid of implementation by the WYO companies of the procedures published in the final rule, as amended, such as the Flood Insurance Manual, Flood Insurance Adjuster's Manual, and FEMA Letter of Credit Procedures, all of which comprise the operating framework for the WYO Program.

The purposes of this Notice are:

(1) To offer, publicly, financial assistance to protect against underwriting losses resulting from floods on Standard Flood Insurance Policies written by private sector insurers;

(2) To provide a method by which the offer may be accepted; and

(3) To provide notice of the duties and obligations under the Financial Assistance/Subsidy Arrangement for the Arrangement year 1993–94.

Method of Acceptance of Offer

1. Acceptance of this offer shall be by telegraphed or mailed notice of acceptance or signed Arrangement to the Administrator prior to midnight EDT September 30, 1993.

2. The telegraphed or mailed notice of acceptance to the Administrator must be authorized by an official of the insurance company who has the authority to enter into such arrangements.

3. A duly signed original copy of the Notice of Acceptance must be on file with the Administrator by November 16, 1993.

4. If 1., 2., or 3. above are not satisfied, the acceptance will be considered by the Administrator as conditional and the commitment of NFIP resources to fulfill the "Undertaking of the Government" under Article IV of the Arrangement will take a lower priority than those needed to fulfill the requirement of the other participating insurance companies.

5. Send all acceptances of this offer to: Federal Emergency Management Agency, Attn: Federal Insurance Administrator, WYO Program, Washington, DC 20472.

Offer To Provide Financial Assistance

Pursuant to the provisions of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329, and Executive Order 12127 of March 31, 1979, 44 FR 19367, 3 CFR, 1979 Comp., p. 376, Federal Emergency Management Agency, subject to all regulations promulgated thereunder, including the final rule published at 53 FR 15208, April 28, 1988, and to the duties, obligations and rights set forth in the Financial Assistance/Subsidy Arrangement as printed below, the Federal Insurance Administrator, herein the "Administrator," offers to enter into the Financial Assistance/Subsidy Arrangement with any individual private sector property insurance company. This offer is effective only in a State in which such private sector insurance company is licensed to engage in the business of property insurance.

Federal Emergency Management Agency, Federal Insurance Administration, Financial Assistance/ Subsidy Arrangement

Purpose: To assist the company in underwriting flood insurance using the Standard Flood Insurance Policy.

Accounting Data: Pursuant to Section 1310 of the Act, a Letter of Credit shall be issued for payment as provided for herein from the National Flood Insurance Fund.

Effective Date: October 1, 1993.

Issued By: Federal Emergency Management Agency, Federal Insurance Administration, Washington, DC 20472.

Article I—Findings, Purpose, and Authority

Whereas, the Congress in its "Finding and Declaration of Purpose" in the National Flood Insurance Act of 1968, as amended, ("the Act") recognized the benefit of having the National Flood Insurance Program (the Program) "carried out to the maximum extent practicable by the private insurance industry"; and

Whereas, the Federal Insurance Administration (FIA) recognizes this Arrangement as coming under the provisions of Section 1345 of the Act; and

Whereas, the goal of the FIA is to develop a program with the insurance industry where, over time, some risk-bearing role for the industry will evolve as intended by the Congress (Section 1304 of the Act); and

Whereas, the Program, as presently constituted and implemented, is subsidized, and the insurer (hereinafter the "Company") under this Arrangement shall charge rates established by the FIA; and

Whereas, this Arrangement will subsidize all flood policy losses by the Company; and

Whereas, this Financial Assistance/ Subsidy Arrangement has been developed to involve individual Companies in the Program, the initial step of which is to explore ways in which any interested insurer may be able to write flood insurance under its own name; and

Whereas, one of the primary objectives of the Program is to provide coverage to the maximum number of structures at risk and because the insurance industry has marketing access through its existing facilities not directly available to the FIA, it has been concluded that coverage will be extended to those who would not otherwise be insured under the Program; and

Whereas, flood insurance policies issued subject to this Arrangement shall be only that insurance written by the Company in its own name pursuant to the Act; and

Whereas, over time, the Program is designed to increase industry participation, and, accordingly, reduce or eliminate Government as the principal vehicle for delivering flood insurance to the public; and

Whereas, the direct beneficiaries of this Arrangement will be those Company policyholders and applicants for flood insurance who otherwise would not be covered against the peril of flood.

Now, therefore, the parties hereto mutually undertake the following:

Article II—Undertakings of the Company

A. In order to be eligible for assistance under this Arrangement the Company shall be responsible for:

1.0 Policy Administration, including
1.1 Community Eligibility/Rating Criteria
1.2 Policyholder Eligibility Determination
1.3 Policy Issuance
1.4 Policy Endorsements
1.5 Policy Cancellations
1.6 Policy Correspondence
1.7 Payment of Agents Commissions

The receipt, recording, control, timely deposit and disbursement of funds in connection with all the foregoing, and correspondence relating to the above in accordance with the Financial Control Plan requirements.

2.0 Claims processing in accordance with general Company standards and the Financial Control Plan. The Write Your Own Claims Manual, the Federal Emergency Management Agency Adjuster Manual, the FIA National Flood Insurance Program Policy Issuance Handbook, the Write Your Own Operational Overview, and other instructional material also provide guidance to the Company.

3.0 Reports.

3.1 Monthly Financial Reporting and Statistical Transaction Reporting shall be in accordance with the requirements of National Flood Insurance Program Transaction Record Reporting and Processing Plan for the Write Your Own (WYO) Program and the Financial Control Plan for business written under the WYO Program. These data shall be validated/ edited/audited in detail and shall be compared and balanced against Company financial reports.

3.2 Monthly financial reporting shall be prepared in accordance with the WYO Accounting Procedures.

3.3 The Company shall establish a program of self audit acceptable to the FIA or comply with the self audit program contained in the Financial Control Plan for business written under the WYO Program. The Company shall report the results of this self-audit to the FIA annually.

B. The Company shall use the following time standards of performance as a guide:

1.0 Application Processing—15 days (Note: If the policy cannot be mailed due to insufficient or erroneous information or insufficient funds, a request for correction or added monies shall be mailed within 10 days);

1.1 Renewal Processing—7 days;

1.2 Endorsement Processing—7 days;

1.3 Cancellation Processing—15 days;

1.4 Correspondence, Simple and/or Status Inquiries—7 days;

1.5 Correspondence, Complex Inquiries—20 days;

1.6 Supply, Materials, and Manual Requests—7 days;

1.7 Claims Draft Processing—7 days from completion of file examination;

1.8 Claims Adjustment—45 days average from receipt of Notice of Loss (or equivalent) through completion of examination.

1.9 For the elements of work enumerated above, the elapsed time shown is from date of receipt through date of mail out. Days means working, not calendar days.

In addition to the standards for timely performance set forth above, all functions performed by the Company shall be in accordance with the highest reasonably attainable quality standards generally utilized in the insurance and data processing industries.

These standards are for guidance. Although no immediate remedy for failure to meet them is provided under this Arrangement, nevertheless, performance under these standards can be a factor considered by the Federal Insurance Administrator (the Administrator) in determining the continuing participation of the Company in the Program or other action, e.g., limiting the Company's authority to write new business.

C. The Company shall coordinate activities and provide information to the FIA or its designee on those occasions when a Flood Insurance Catastrophe Office is established.

D. Policy Issuance.

1.0 The flood insurance subject to this Arrangement shall be only that insurance written by the Company in its own name pursuant to the Act.

2.0 The Company shall issue policies under the regulations prescribed by the Administrator in accordance with the Act;

3.0 All such policies of insurance shall conform to the regulations prescribed by the Administrator pursuant to the Act, and be issued on a form approved by the Administrator;

4.0 All policies shall be issued in consideration of such premiums and upon such terms and conditions and in such States or areas or subdivisions thereof as may be designated by the Administrator and only where the Company is licensed by State law to engage in the property insurance business;

5.0 The Administrator may require the Company to immediately discontinue issuing policies subject to this Arrangement in the event Congressional authorization or appropriation for the National Flood Insurance Program is withdrawn.

E. The Company shall establish a bank account, separate and apart from all other Company accounts, at a bank of its choosing for the collection, retention and disbursement of funds relating to its obligation under this Arrangement, less the Company's expenses as set forth in Article III, and the operation of the Letter of Credit established pursuant to Article IV. All funds not required to meet current expenditures shall be remitted to the United States Treasury, in accordance with the provisions of the WYO Accounting Procedures Manual.

F. The Company shall investigate, adjust, settle and defend all claims or losses arising from policies issued under this Arrangement. Payment of flood insurance claims by the Company shall be binding upon the FIA.

G. The Company may market flood insurance policies in any manner consistent with its customary method of operation, provided that there is adherence to Program statutes, regulations and explicit guidelines, e.g., for the Mortgage Portfolio Protection Program.

Article III—Loss Costs, Expenses, Expense Reimbursement, and Premium Refunds

A. The Company shall be liable for operating, administrative and production expenses, including any taxes, dividends, agent's commissions or any board, exchange or bureau assessments, or any other expense of whatever nature incurred by the Company in the performance of its obligations under this Arrangement.

B. The Company shall be entitled to withhold as operating and administrative expenses, other than agents or brokers commissions, an amount from the Company's written premium on the policies covered by this Arrangement in reimbursement of all of the Company's marketing, operating and administrative expenses, except for allocated and unallocated loss adjustment expenses described in C. of this Article, which amount shall equal the average of industry expense ratios for "Other Acq." "Gen. Exp." and "Taxes" as published in the latest available (as of March 15 of the prior Arrangement year) "Best's" Aggregates and Averages Property Casualty, Industry Underwriting—by Lines for Fire, Allied Lines, Farmowners Multiple Peril, Homeowners Multiple Peril, and Commercial Multiple Peril combined (weighted average using premiums earned as weights) calculated and promulgated by the Administrator. Premium income net of reimbursement (net premium income) shall be deposited in a special account for the payment of losses and loss adjustment expenses (see Article II, Section E).

The Company shall be entitled to 15% of the Company's written premium on the policies covered by this Arrangement as the commission allowance to meet commissions and/or salaries of their insurance agents, brokers, or other entities producing qualified flood insurance applications and other related expenses.

The Company, with the consent of the Administrator as to terms and costs, shall be entitled to utilize the services of a national rating organization, licensed under state law, to assist the FIA in undertaking and carrying out such studies and investigations on a community or individual risk basis, and in determining more equitable and accurate estimates of flood insurance risk premium rates as authorized under the National Flood Insurance Act of 1968, as amended. The Company shall be reimbursed in accordance with the provisions of the WYO Accounting Procedures Manual for the charges or fees for such services.

C. Loss Adjustment Expenses shall be reimbursed as follows:

1. Unallocated loss adjustment shall be an expense reimbursement of 3.3% of the incurred loss (except that it does not include "incurred but not reported").

2. Allocated loss adjustment expense shall be reimbursed to the Company pursuant to Exhibit A, entitled "Fee Schedule."

3. Special allocated loss expenses shall be reimbursed to the Company for only those expenses the Company has obtained prior approval of the Administrator to incur.

D.1. Loss payments under policies of flood insurance shall be made by the Company from funds retained in the bank account established under Article II, Section E and, if such funds are depleted, from funds derived by drawing against the Letter of Credit established pursuant to Article IV.

2. Loss payments will include payments as a result of awards or judgments for damages arising under the scope of this Arrangement, policies of flood insurance issued pursuant to this Arrangement, and the claims processing standards and guides set forth at Article II, Section A, 2.0 of this Arrangement. Prompt notice of any claim for damages as to claims processing or other matters arising outside the scope of this section (D)(2) shall be sent to the Assistant Administrator of the FIA's Office of Insurance Policy Analysis and Technical Services (OIPATS), along with a copy of any material pertinent to the claim for damages arising outside of the scope of the matters set forth in this section (D)(2).

Following receipt of notice of such claim, the General Counsel (OGC), FEMA, shall review the cause and make a recommendation to FIA as to whether the claim is grounded in actions by the Company which are significantly outside the provisions of this section (D)(2). After reviewing the General Counsel's recommendation, the Administrator will make his decision and the Company will be notified, in writing, within thirty (30) days of the General Counsel's recommendation, if the decision is that any award or judgment for damages arising out of such actions will not be recognized under Article III of this Arrangement as a reimbursable loss cost, expense or expense reimbursement. In the event that the Company wishes to petition for reconsideration of the notification that it will not be reimbursed for the award or judgment made under the above circumstances, it may do so by mailing, within thirty days of the notice declining to recognize any such award or judgment as reimbursable under Article III, a written petition to the Chairman of the WYO Standards Committee established under the Financial Control Plan. The WYO

Standards Committee will, then, consider the petition at its next regularly scheduled meeting or at a special meeting called for that purpose by the Chairman and issue a written recommendation to the Administrator, within thirty days of the meeting. The Administrator's final determination will be made, in writing, to the Company within thirty days of the recommendation made by the WYO Standards Committee.

E. Premium refunds to applicants and policyholders required pursuant to rules contained in the National Flood Insurance Program (NFIP) "Flood Insurance Manual" shall be made by the Company from funds retained in the bank account established under Article II, Section E and, if such funds are depleted, from funds derived by drawing against the Letter of Credit established pursuant to Article IV.

Article IV—Undertakings of the Government

A. Letter(s) of Credit shall be established by the Federal Emergency Management Agency (FEMA) against which the Company may withdraw funds daily, if needed, pursuant to prescribed procedures as implemented by FEMA. The amounts of the authorizations will be increased as necessary to meet the obligations of the Company under Article III, Sections (C), (D), and (E). Request for funds shall be made only when net premium income has been depleted. The timing and amount of cash advances shall be as close as is administratively feasible to the actual disbursements by the recipient organization for allowable Letter of Credit expenses.

Request for payment on Letters of Credit shall not ordinarily be drawn more frequently than daily nor in amounts less than $5,000, and in no case more than $5,000,000 unless so stated on the Letter of Credit. This Letter of Credit may be drawn by the Company for any of the following reasons:

1. Payment of claim as described in Article III, Section D; and

2. Refunds to applicants and policyholders for insurance premium overpayment, or if the application for insurance is rejected or when cancellation or endorsement of a policy results in a premium refund as described in Article III, Section E; and

3. Allocated and unallocated Loss Adjustment Expenses as described in Article III, Section C.

B. The FIA shall provide technical assistance to the Company as follows:

1. The FIA's policy and history concerning underwriting and claims handling.

2. A mechanism to assist in clarification of coverage and claims questions.

3. Other assistance as needed.

Article V—Commencement and Termination

A. Upon signature of authorized officials for both the Company and the FIA, this Arrangement shall be effective for the period October 1 through September 30. The FIA shall provide financial assistance only for policy applications and endorsements accepted by the Company during this period pursuant to the Program's effective date, underwriting and eligibility rules.

B. By June 1, of each year, the FIA shall publish in the **Federal Register** and make available to the Company the terms for the re-subscription of this Financial Assistance/Subsidy Arrangement. In the event the Company chooses not to re-subscribe, it shall notify the FIA to that effect by the following July 1.

C. In the event the Company elects not to participate in the Program in any subsequent fiscal year, or the FIA chooses not to renew the Company's participation, the FIA, at its option, may require (1) the continued performance of this entire Arrangement for one (1) year following the effective expiration date only for those policies issued during the original term of this Arrangement, or any renewal thereof, or (2) the transfer to the FIA of:

a. All data received, produced and maintained through the life of the Company's participation in the Program, including certain data, as determined by FIA, in a standard format and medium; and

b. A plan for the orderly transfer to the FIA of any continuing responsibilities in administering the policies issued by the Company under the Program including provisions for coordination assistance; and

c. All claims and policy files, including those pertaining to receipts and disbursements which have occurred during the life of each policy. In the event of a transfer of the services provided, the Company shall provide the FIA with a report showing, on a policy basis, any amounts due from or payable to insureds, agents, brokers, and others as of the transition date.

D. Financial assistance under this Arrangement may be cancelled by the FIA in its entirety upon 30 days written notice to the Company by certified mail stating one of the following reasons for such cancellation: (1) Fraud or misrepresentation by the Company subsequent to the inception of the contract, or (2) non payment to the FIA of any amount due the FIA. Under these very specific conditions, the FIA may require the transfer of data as shown in Section C., above. If transfer is required, the unearned expenses retained by the Company shall be remitted to the FIA.

E. In the event the Act is amended, or repealed, or expires, or if the FIA is otherwise without authority to continue the Program, financial assistance under this Arrangement may be cancelled for any new or renewal business, but the Arrangement shall continue for policies in force which shall be allowed to run their term under the Arrangement.

F. In the event that the Company is unable to, or otherwise fails to, carry out its obligations under this Arrangement by reason of any order or directive duly issued by the Department of Insurance of any Jurisdiction to which the Company is subject, the Company agrees to transfer, and the Government will accept, any and all WYO policies issued by the Company and in force as of the date of such inability or failure to perform. In such event the Government will assume all obligations and liabilities owed to policyholders under such policies arising before and after the date of transfer and the Company will immediately transfer to the Government all funds in its possession with respect to all such policies transferred and the unearned portion of the Company expenses for operating, administrative and loss adjustment on all such policies.

Article VI—Information and Annual Statements

The Company shall furnish to the FIA such summaries and analyses of information in its records as may be necessary to carry out the purposes of the National Flood Insurance Act of 1968, as amended, in such form as the FIA, in cooperation with the Company, shall prescribe. The Company shall be a property/casualty insurer domiciled in a State or territory of the United States. Upon request, the Company shall file with the FIA a true and correct copy of the Company's Fire and Casualty Annual Statement, and Insurance Expense Exhibit or amendments thereof, as filed with the State Insurance Authority of the Company's domiciliary State.

Article VII—Cash Management and Accounting

A. The FEMA shall make available to the Company during the entire term of this Arrangement and any continuation period required by FIA pursuant to Article V, Section C., the Letter of Credit provided for in Article IV drawn on a repository bank within the Federal Reserve System upon which the Company may draw for reimbursement of its expenses as set forth in Article IV which exceed net written premiums collected by the Company from the effective date of this Arrangement or continuation period to the date of the draw.

B. The Company shall remit all funds not required to meet current expenditures to the United States Treasury, in accordance with the provisions of the WYO Accounting Procedures Manual.

C. In the event the Company elects not to participate in the Program in any subsequent fiscal year, the Company and FIA shall make a provisional settlement of all amounts due or owing within three months of the termination of this Arrangement. This settlement shall include net premiums collected, funds drawn on the Letter of Credit, and reserves for outstanding claims. The Company and FIA agree to make a final settlement of accounts for all obligations arising from this Arrangement within 18 months of its expiration or termination, except for contingent liabilities which shall be listed by the Company. At the time of final settlement, the balance, if any, due the FIA or the Company shall be remitted by the other immediately and the operating year under this Arrangement shall be closed.

Article VIII—Arbitration

A. If any misunderstanding or dispute arises between the Company and the FIA with reference to any factual issue under any provisions of this Arrangement or with respect to the FIA's non-renewal of the Company's participation, other than as to legal liability under or interpretation of the standard flood insurance policy, such misunderstanding or dispute may be submitted to arbitration for a determination which shall be binding upon approval by the FIA. The Company and the FIA may agree on and appoint an arbitrator who shall investigate the subject of the

misunderstanding or dispute and make a determination. If the Company and the FIA cannot agree on the appointment of an arbitrator, then two arbitrators shall be appointed, one to be chosen by the Company and one by the FIA.

The two arbitrators so chosen, if they are unable to reach an agreement, shall select a third arbitrator who shall act as umpire, and such umpire's determination shall become final only upon approval by the FIA.

The Company and the FIA shall bear in equal shares all expenses of the arbitration. Findings, proposed awards, and determinations resulting from arbitration proceedings carried out under this section, upon objection by FIA or the Company, shall be inadmissible as evidence in any subsequent proceedings in any court of competent jurisdiction.

This Article shall indefinitely succeed the term of this Arrangement.

Article IX—Errors and Omissions

The parties shall not be liable to each other for damages caused by ordinary negligence arising out of any transaction or other performance under this Arrangement, nor for any inadvertent delay, error, or omission made in connection with any transaction under this Arrangement, provided that such delay, error, or omission is rectified by the responsible party as soon as possible after discovery.

However, in the event that the Company has made a claim payment to an insured without including a mortgagee (or trustee) of which the Company had actual notice prior to making payment, and subsequently determines that the mortgagee (or trustee) is also entitled to any part of said claim payment, any additional payment shall not be paid by the Company from any portion of the premium and any funds derived from any Federal Letter of Credit deposited in the bank account described in Article II, section E. In addition, the Company agrees to hold the Federal Government harmless against any claim asserted against the Federal Government by any such mortgagee (or trustee), as described in the preceding sentence, by reason of any claim payment made to any insured under the circumstances described above.

Article X—Officials Not to Benefit

No Member or Delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this Arrangement, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this Arrangement if made with a corporation for its general benefit.

Article XI—Offset

At the settlement of accounts the Company and the FIA shall have, and may exercise, the right to offset any balance or balances, whether on account of premiums, commissions, losses, loss adjustment expenses, salvage, or otherwise due one party to the other, it successors or assigns, hereunder or under any other Arrangements heretofore or hereafter entered into between the Company and the FIA. This right of offset shall not be affected or diminished because of insolvency of the Company.

All debts or credits of the same class, whether liquidated or unliquidated, in favor of or against either party to this Arrangement on the date of entry, or any order of conservation, receivership, or liquidation, shall be deemed to be mutual debts and credits and shall be offset with the balance only to be allowed or paid. No offset shall be allowed where a conservator, receiver, or liquidator has been appointed and where an obligation was purchased by or transferred to a party hereunder to be used as an offset. Although a claim on the part of either party against the other may be unliquidated or undetermined in amount on the date of the entry of the order, such claim will be regarded as being in existence as of the date of such order and any credits or claims of the same class then in existence and held by the other party may be offset against it.

Article XII—Equal Opportunity

The Company shall not discriminate against any applicant for insurance because of race, color, religion, sex, age, handicap, marital status, or national origin.

Article XIII—Restriction on Other Flood Insurance

As a condition of entering into this Arrangement, the Company agrees that in any area in which the Administrator authorizes the purchase of flood insurance pursuant to the Program, all flood insurance offered and sold by the Company to persons eligible to buy pursuant to the Program for coverages available under the Program shall be written pursuant to this Arrangement.

However, this restriction applies solely to policies providing only flood insurance. It does not apply to policies provided by the Company of which flood is one of the several perils covered, or where the flood insurance coverage amount is over and above the limits of liability available to the insured under the Program.

Article XIV—Access to Books and Records

The FIA and the Comptroller General of The United States, or their duly authorized representatives, for the purpose of investigation, audit, and examination shall have access to any books, documents, papers and records of the Company that are pertinent to this Arrangement. The Company shall keep records which fully disclose all matters pertinent to this Arrangement, including premiums and claims paid or payable under policies issued pursuant to this Arrangement. Records of accounts and records relating to financial assistance shall be retained and available for three (3) years after final settlement of accounts, and to financial assistance, three (3) years after final adjustment of such claims. The FIA shall have access to policyholder and claim records at all times for purposes of the review, defense, examination, adjustment, or investigation of any claim under a flood insurance policy subject to this Arrangement.

Article XV—Compliance with Act and Regulations

This Arrangement and all policies of insurance issued pursuant thereto shall be subject to the provisions of the National Flood Insurance Act of 1968, as amended, the Flood Disaster Protection Act of 1973, as amended, and Regulations issued pursuant thereto and all Regulations affecting the work that are issued pursuant thereto, during the term hereof.

Article XVI—Relationship Between the Parties (Federal Government and Company) and the Insured

Inasmuch as the Federal Government is a guarantor hereunder, the primary relationship between the Company and the Federal Government is one of a fiduciary nature, i.e., to assure that any taxpayer funds are accounted for and appropriately expended.

The Company is not the agent of the Federal Government. The Company is solely responsible for its obligations to its insured under any flood policy issued pursuant hereto.

In witness whereof, the parties hereto have accepted this Arrangement on this _____day of _____, 1993.

Company
By: _____
(Title) _____
The United States of America
Federal Emergency Management Agency
By: _____
(Title) _____

FEE SCHEDULE

Range (by covered loss)	Fee
Erroneous Assignment	$40.00
Closed Without Payment	125.00
Minimum for Upton-Jones Claims	800.00
$0.01 to $600.00	150.00
$600.01 to $1,000.00	175.00
$1,000.01 to $2,000.00	225.00
$2,000.01 to $3,500.00	275.00
$3,500.01 to $5,000.00	350.00
$5,000.01 to $7,000.00	425.00
$7,000.01 to $10,000.00	500.00
$10,000.01 to $15,000.00	550.00
$15,000.01 to $25,000.00	600.00
$25,000.01 to $35,000.00	675.00
$35,000.01 to $50,000.00	750.00
$50,000.01 to $100,000.00	1,000.00
$100,000.01 to $150,000.00	1,300.00
$150,000.01 to $200,000.00	1,600.00
$200,000.01 to limits	2,000.00

Allocated fee schedule entry value is the covered loss under the policy based on the standard deductibles ($500 and $500) and limited to the amount of insurance purchased.

Notice of Acceptance Form 1993–1994; Federal Emergency Management Agency; Federal Insurance Administration; Financial Assistance/Subsidy Arrangement (Arrangement).

Whereas, in 1993, there was published a Notice of Offer by the Federal Emergency Management Agency to enter into a Financial Assistance/Subsidy Arrangement (hereafter the Arrangement).

Whereas, the above cited Arrangement, as published in and

reprinted from the Federal Register, does not provide sufficient space to type in the name of the Company.

Whereas, the Arrangement may include several individual companies within a Company Group and the Arrangement as published in and reprinted from the Federal Register does not provide sufficient space to type in a list of companies.

Therefore, the parties hereby agree that this Notice of Acceptance form is incorporated into and is an integral part of the entire Arrangement and is substituted in place of the signature block contained in the Federal Register under Article XVI of the Arrangement. The above mentioned Arrangement is effective in the States in which the insurance company(ies) listed below is (are) duly licensed to engage in the business of property insurance:

_____

_____

_____

_____

_____

In witness whereof, the parties hereto have accepted this Arrangement on this _____day of _____, _____.

By: _____

Title: _____

The United States of America
Federal Emergency Management Agency

By: _____

Title: Federal Insurance Administrator

Dated: May 14, 1993.

Francis V. Reilly,

Deputy Administrator, Federal Insurance Administration.

[FR Doc. 93–12333 Filed 5–24–93; 8:45 am]

BILLING CODE 6718–05–P

FEDERAL MARITIME COMMISSION

Agreement(s) Filed: Asia North America Eastbound Rate Agreement, 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.: 202–010776–084.

Title: Asia North America Eastbound Rate Agreement.

Parties:

American President Lines, Ltd.

Hapaq-Lloyd AG

Kawasaki Kisen Kaisha, Ltd.

A.P. Moller-Maersk Line

Mitsui O.S.K. Lines, Ltd.

Neptune Orient Lines, Ltd.

Nippon Yusen Kaisha Line

Orient Overseas Container Line

Sea-Land Service, Inc.

Synopsis: The proposed amendment modifies the voting requirements to provide that a service contract amendment substituting one permitted co-loader for another shall be subject to a majority vote.

Agreement No.: 224–003800–013.

Title: City of Long Beach/California United Terminals Agreement.

Parties:

City of Long Beach

California United Terminals

Synopsis: The amendment adds Hyundai Merchant Marine (America), Inc. in place of Kerr Terminals, Inc. as a member of the California joint venture doing business as California United Terminals.

Agreement No.: 224–200771.

Title: Port of New York and New Jersey/NSCSA America, Inc. Container Incentive Agreement.

Parties:

The Port Authority of New York and New Jersey ("Port")

The National Shipping Company of Saudi Arabia ("NSCSA")

Synopsis: The Agreement provides that the Port will pay NSCSA a container incentive of $20.00 for each import container and $40.00 for each export container moved through the Port's marine terminals during calendar year 1993, provided each container is shipped by rail to or from points more than 260 miles from the port.

Dated: May 19, 1993.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 93–12281 Filed 5–24–93; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Charles Hill Beaty, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have 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 the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they 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 notice or to the offices of the Board of Governors. Comments must be received not later than June 14, 1993.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Charles Hill Beaty*, Gallatin, Tennessee, and Montee Kittrell Beaty, Gallatin, Tennessee; to each acquire at least 10 percent of the voting shares of First Farmers Bancshares, Inc., Portland, Tennessee, and thereby indirectly acquire The Farmers Bank, Portland, Tennessee.

Board of Governors of the Federal Reserve System, May 19, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–12298 Filed 5–24–93; 8:45 am]

BILLING CODE 6210–01–F

F & M National Corporation, et al.; Formations of; Acquisitions By; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of

Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than June 18, 1993.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. F & M National Corporation, Winchester, Virginia; to merge with First National Bankshares, Inc., Emporia, Virgina, and thereby indirectly acquire The First National Bank of Emporia, Emporia, Virginia.

B. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Valentine Bancorporation, Valentine, Nebraska; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Valentine, Valentine, Nebraska.

Board of Governors of the Federal Reserve System, May 19, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–12299 Filed 5–24–93; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 042693 and 050793

Name of acquiring person, Name of acquired person, Name of acquired entity	PMN No.	Date terminated
McGraw-Hill, Inc., Liberty Brokerage Inc., Liberty Brokerage Inc	930874	4/26/93
Control Data Systems, Inc., Evernet Systems, Inc. Evernet Systems, Inc	930876	4/26/93
Dibrell Brothers, Incorporated, Standard Commercial Corporation, Standard Commercial Corporation	930882	4/26/93
Standard Commercial Corporation, Dibrell Brothers, Incorporated, Dibrell Brothers, Incorporated	930883	4/26/93
Blockbuster Entertainment Corporation, Discovery Zone, Inc., Discovery Zone, Inc	930899	4/26/93
Estrin-Abod Equities Limited Partnership, National Intergroup, Inc., National Intergroup, Inc	930918	4/26/93
Perini Corporation, Gust K. Newberg Construction Co., Gust K. Newberg Construction Co	930921	4/26/93
CSS Industries, Inc., Henry T. Doherty, Berwick Industries, Inc	930933	4/26/93
Athena Neurosciences, Inc., Eli Lilly and Company, Eli Lilly and Company	930869	4/27/93
International Business Machines Corporation, Compagnie Generale Informatique S.A., Compagnie Generale Informatique S.A	930908	4/27/93
Jon M. Huntsman, Princeton Packaging Holdings, Inc., Princeton Packaging Holdings, Inc	930905	4/28/93
The Fuji Bank, Limited	930906	4/28/93
Richard Sheerr, Crown Holding Company		
Swedish Medical Center, Bethesda PsycHealth Systems, Inc., Bethesda PsycHealth Systems, Inc	930931	4/28/93
Timonty J. Rigas, John J. Rigas, Adelphia Communications Corporation	930923	4/30/93
Michael J. Rigas, John J. Rigas, Adelphia Communications Corporation	930924	4/30/93
James P. Rigas, John J. Rigas, Adelphia Communications Corporation	930925	4/30/93
Omnicom Group Inc., TBWA International B.V., TBWA International B.V	930930	4/30/93
Akzo N.V., AMP Incorporated, AMP-Akzo Corporation	930937	4/30/93
AMP Incorporated, Akzo N.V., AMP-Akzo Corporation	930938	4/30/93
Office Depot, Inc., Steelcase Inc., Wilson Stationery & Printing Company	930940	4/30/93
Merrill Lynch Capital Appreciation Partnership B–X, L.P., Merrill Lynch Capital Appreciation Partnership IX, L.P., Plainbridge, Inc	930946	4/30/93
Danka Business Systems PLC, Uni-Copy Corporation, Uni-Copy Corporation	930948	4/30/93
Foundation Health Corporation, Business Insurance Corporation	930953	4/30/93
Business Insurance Corporation		
Dover Corporation, The Heil Co., The Heil Co	930956	4/30/93
Howden Group PLC, Ampco-Pittsburgh Corporation, Buffalo Forge Company	930917	5/03/93
Henry L. Hillman, The Fuji Bank Limited, Famous Restaurants, Inc	930920	5/03/93
Susie R. Tompkins, Esprit Holdings, Inc., Esprit Holdings, Inc	930943	5/03/93
Echlin Inc., Mr. Gasket Company, Mr. Gasket Company	930954	5/03/93
Capital Cities/ABC, Inc., Donald Ohlmeyer, Ohlmeyer Communications Company	930909	5/04/93
Norex America, Inc., Zapata Corporation, Zapata Corporation	930901	5/05/93
Kirby Corporation, Captain Doyle R. Varner, Afram Lines (USA) Co., Ltd	930910	5/05/93
Alejo Peralta y Diaz Ceballos, Harry Indursky, Cambridge-Lee Industries, Inc	930915	5/05/93
Liberty Media Corporation, Robertson Charitable Remainder Unitrust, International Family Entertainment, Inc	930936	5/05/93
Sterling Software, Inc., Systems Center, Inc., Systems Center, Inc	930941	5/05/93
Forest Oil Corporation, Atlantic Richfield Company, Atlantic Richfield Company	930952	5/05/93

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 042693 and 050793—Continued

Name of acquiring person, Name of acquired person, Name of acquired entity	PMN No.	Date terminated
K/S Difko XXXVI, Integrated Protein Technology, Integrated Protein Technology	930958	5/05/93
American Express Company, Westinghouse Electric Corp., Westinghouse Credit Corporation	930971	5/06/93
PepsiCo, Inc., Alvin G. Beaman Family Trust, Beaman Bottling Company	930947	5/07/93
Danaher Corporation, Mark IV Industries, Inc., LFE Instruments Division, Graphic Instruments	930950	5/07/93
Unilabs Holdings S.A., Corning Incorporated, MetCal Inc	930961	5/07/93
General Electric Company, Waste Management, Inc., Waste Management of North America, Inc	930962	5/07/93
Stanley H. Durwood, TPI Enterprises, Inc., Exhibition Enterprises Partnership	930965	5/07/93
Gibson Greetings, Inc., Nelson Rohrbach, The Paper Factor of Wisconsin, Inc	930968	5/07/93
Montgomery/Madison Associates, Chemical Banking Corporation, Chemical Banking Corporation	930992	5/07/93
Settlement dated 31st December 1985, Fla. Orthopedics, Inc., Fla. Orthopedics, Inc	930993	5/07/93

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay, or Renee A. Horton, Contact Representatives, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, room 303, Washington, DC 20580, (202) 326–3100.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 93–12315 Filed 5–24–93; 8:45 am]

BILLING CODE 6750–01–M

[File No. 912 3100]

Marshall Field & Company; Proposed Consent Agreement with Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require, among other things, a Chicago-based retail chain to comply with the disclosure provisions of the Fair Credit Reporting Act (FCRA) for future applicants denied employment based on information obtained from a consumer reporting agency regardless of whether alternative employment is offered. It also would require the company to send a letter to past job applicants denied employment, since August 1990, but not previously given the requisite disclosure, so that recipients can check the information for accuracy and seek to correct any errors.

DATES: Comments must be received on or before July 26, 1993.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, room 159, 6th St. and Pa. Ave. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Cynthia Lamb or Donald d'Entremont, FTC/S–4429, Washington, DC 20580. (202) 326–3001 or 326–2736.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii).

The Federal Trade Commission having initiated an investigation of certain acts and practices of Marshall Field & Company, a corporation, and it now appearing that Marshall Field & Company, a corporation, hereinafter sometimes referred to as proposed respondent, without acknowledging the violation of any law or rule or regulation, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between Marshall Field & Company, by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Marshall Field & Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with offices located at 777 Nicollet Mall, Minneapolis, Minnesota 55402–2055 and principal place of business in Chicago, Illinois.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the proposed respondent, and the proceeding is in the public interest.

3. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

4. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered into pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act, 5 U.S.C. 50 *et seq.*

5. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of the compliant contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that any law has been violated as alleged in the draft of complaint here attached.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in

disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the United States Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

8. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

For the purpose of this Order, the terms "consumer," "consumer report," and "consumer reporting agency" shall be defined as provided in Sections 603(c), 603(d), and 603(f), respectively, of the Fair Credit Reporting Act, 15 U.S.C. 1681, 1681a(c), 1681a(d), and 1681a(f).

I

It is ordered that respondent Marshall Field & Company, a corporation, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with any application for employment, do forthwith cease and desist from:

1. Failing, whenever employment is denied either wholly or partly because of information contained in a consumer report from a consumer reporting agency, regardless of whether alternative employment is offered, to disclose to the applicant for employment at the time such adverse action is communicated to the applicant (a) that the adverse action was based wholly or partly on information contained in such a report and (b) the name and street address of the consumer reporting agency making the report. Respondent shall not be held liable for a violation of Section 615(a) of the Fair Credit Reporting Act if it shows by a preponderance of the evidence that at the time of the alleged violation it maintained reasonable procedures to assure compliance with Section 615(a) of the Fair Credit Reporting Act.

2. Failing, within ninety (90) days after the date of service of this Order, to mail two (2) copies of the letter attached hereto as Appendix A, completed to provide the name and address of the consumer reporting agency supplying the report to each applicant who was denied employment by Marshall Field & Company, between August 1, 1990, and the date this Order is issued, based in whole or in part on information contained in a consumer report from a consumer reporting agency, such copies of the letter to be sent by first class mail to the last known address of the applicant that is reflected in respondent's files, and accompanied by a copy of the Federal Trade Commission brochure attached hereto as Appendix B, copies of which are to be provided by respondent. Copies of the letter attached as Appendix A need not be sent to any applicant who is denied employment with respondent during the time period specified above if the applicant's application file clearly shows that respondent Marshall Field & Company, has previously given the applicant notification that complies in all respects with the provisions of Paragraph I.1 of this Order.

II

It is further ordered that respondent, its successors, and assigns shall for at least five (5) years maintain for one (1) current year and upon request shall make available to the Federal Trade Commission for inspection and copying, documents demonstrating compliance with the requirements of Part I of this Order, such documents to include, but not be limited to, all employment evaluation criteria relating to consumer reports, written or electronic instructions given to employees regarding compliance with the provisions of this Order, all notices or a written or electronically stored notation of the description of the form of notice and the date such notice was provided to applicants pursuant to any provisions of this Order, and the complete application files for all applicants for whom consumer reports were obtained to whom offers of employment are not made or have been withheld, withdrawn, or rescinded based, in whole or in part, on information contained in a consumer report.

III

It is further ordered that respondent for at least five (5) years shall distribute a copy of this Order to each present and future officer and to every present and future officer and to every present and future employee, agency and representative responsible for the respondent's compliance with Section 615(a) of the Fair Credit Reporting Act and shall secure from each such person a signed statement acknowledging receipt of the copy of the Order.

IV

It is further ordered that respondent shall for at least five (5) years hereafter notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in the corporation such as dissolution, the emergence of a successor corporation, the creation or dissolution of a subsidiary, transfer of the business by assignment to another entity, or any other change in the corporation that may affect compliance obligations under the Order.

V

It is further ordered that respondent shall, within one hundred twenty (120) days of service of this Order, file with the Federal Trade Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this Order.

Appendix A

Dear Employment Applicant: Our records show that you applied for employment at Marshall Field & Company at some time after August 1, 1990. In assessing your job application our decision was based, at least in part, on information obtained from the credit bureau identified below:

[Name of Consumer Reporting Agency]

[Street Address]

It is important for you to know that a federal law, the Fair Credit Reporting Act, gives persons who are denied employment the right to know if the denial was based, in whole or in part, on information supplied by a consumer reporting agency, commonly known as a "credit bureau". If so, the name and street address of the credit bureau must be disclosed to the applicant.

Information in your credit report led us, at least in part, to deny your application. Based on our actions you are entitled to a free disclosure of your credit report if you contact the credit bureau with (30) days. An extra copy of this notice is enclosed so that you may give it to the agency when you request to review your file.

A brochure explaining your rights under the federal credit laws is enclosed. If you want more information about your rights,

write to the Federal Trade Commission, Correspondence Branch, Washington, DC 20580.

Thank you.

Appendix B—Fair Credit Reporting Brochure

Fair Credit Reporting

Fast Facts

- The Fair Credit Reporting Act protects you by requiring credit bureaus to furnish correct and complete information to businesses to use in evaluating your applications for credit, insurance, or a job.
- You have the right to know what information is in your credit report.
- Credit bureaus are required to conduct an investigation if you claim their information on you is inaccurate or incomplete.
- Legitimate adverse credit information generally stays on your credit report for seven years; information on bankruptcies can be reported for 10 years.
- Credit reports can only be given to those persons, other than yourself, who have a legitimate business need for the information.

If you have ever applied for a charge account, a personal loan, insurance, or a job, someone is probably keeping a file on you. This file might contain information on how you pay your bills, or whether you've been sued, arrested, or have filed for bankruptcy.

The companies that gather and sell this information are called "Consumer Reporting Agencies," or "CRA's." The most common type of CRA is the credit bureau. The information sold by CRA's to creditors, employers, insurers, and other businesses is called a "consumer report." This generally contains information about where you work and live and about your bill-paying habits.

In 1970, Congress passed the Fair Credit Reporting Act to give consumers specific rights in dealing with CRA's. The Act protects you by requiring credit bureaus to furnish correct and complete information to businesses to use in evaluating your applications for credit, insurance, or a job.

The Federal Trade Commission enforces the Fair Credit Reporting Act. Here are answers to some questions about consumer reports and CRA's.

How Do I Locate the CRA That has My file?

If your application was denied because of information supplied by a CRA, that agency's name and address must be suppled to you by the company you applied to. Otherwise, you can find the CRA that has your file by calling those listed in the Yellow Pages under "credit" or "credit rating and reporting." Since more than one CRA may have a file about you, call each one listed until you locate all agencies maintaining your file.

Do I Have the Right To Know What the Report Says?

Yes, if you request it. The CRA is required to tell you about every piece of information in the report and, in most cases, the sources of that information. Medical information is exempt from this rule, but you can have your physician try to obtain it for you. The CRA is not required to give you a copy of the report, although more and more are doing so. You also have the right to be told the name of anyone who received a report on you in the past six months. (If you inquiry concerns a job application, you can get the names of those who received a report during the past two years.)

Is This Information Free?

Yes, if your application was denied because of information furnished by the CRA, and if you request it within 30 days of receiving the denial notice. If you don't meet these requirements, the CRA may charge a reasonable fee.

What can I Do if the Information is Inaccurate or Incomplete?

Notify the CRA. They're required to reinvestigate the items in question. If the new investigation reveals an error, a corrected version will be sent, on your request, to anyone who received your report in the past six months. (Job applicants can have corrected reports sent to anyone who received a copy during the past two years.)

What can I Do if the CRA Won't Modify My Report?

The New investigation may not resolve your dispute with the CRA. If this happens, have the CRA include your version or a summary of your version of the disputed information in your file and in future reports. At your request, the CRA will also show your version to anyone who recently received a copy of the old report. There is no charge for this service if it's requested within 30 days after your receive notice of your application denial. After that, there may be a reasonable charge.

Do I Have to go in Person to get the Information?

No, you may also request information over the phone. But before the CRA will provide any information, you must establish your identity by completing forms they will send you. If you do wish to visit in person, you will need to make an appointment.

Are Reports Prepared on Insurance and Job Applicants Different?

If a report is prepared on you in response to an insurance or job application. It may be an investigative consumer report. These are much more detailed than regular consumer reports. They often involve interviews with acquaintances about your lifestyle, character, and reputation. Unlike regular consumer reports, you'll be notified in writing when a company orders an investigative report about you. This notice also will explain your right to ask for additional information about the report from the company you applied to. If your application is rejected, however, you may prefer to obtain a complete disclosure by contacting the CRA. as outlined in this fact sheet. Note that the CRA does not have to reveal the sources of the investigative information.

How Long Can CRA's Report Unfavorable Information?

Generally, seven years. Adverse information can't be reported after that, with certain exceptions:

- Bankruptcy information can be reported for 10 years;
- Information reported because of an application for a job with a salary of more than $20,000 has not time limitation;
- Information reported because of an application for more then $50,000 worth of credit or life insurance has no time limitation;
- Information concerning a lawsuit or judgment against you can be reported for seven years or until the statute of limitations runs out, whichever is longer.

Can Anyone Get a Copy of the Report?

No, it's only given to those with a legitimate business need.

Are There Other Laws I Should Know About?

Yes, if you applied for and were denied credit, the Equal Credit Opportunity Act requires creditors to tell you the specific reasons for your denial. For example, the creditor must tell you whether the denial was because you have "no credit file" with a CRA or because the CRA says you have "delinquent obligations." This law also requires creditors to consider, upon request, additional information you might supply about your credit history.

You may wish to obtain the reason for denial from the creditor before you go to the credit bureau.

Do Women Have Special Problems With Credit Applications?

Married and formerly married women may encounter some common credit-related problems. For more information, write for the free fact sheet, *Women and Credit Histories.* Public Reference, Federal Trade Commission, Washington, DC 20580.

Where Should I Report Violations of the Law?

Although the FTC can't act as your lawyer in private disputes, information about your experiences and concerns is vital to the enforcement of the Fair Credit Reporting Act. Please send questions or complaints to: Correspondence Branch, Federal Trade Commission, Washington, DC 20580.

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FTC Headquarters

6th & Pennsylvania Avenue, NW
Wahsington, DC 20580
(202) 326–2222
TDD (202) 326–2502

FTC Regional Offices

1718 Peachtree Street, NW., Suite 1000
Atlanta, Georgia 30367
(40) 347–4836

10 Causeway Street, Suite 1184
Boston, Massachusetts 02222–1073
(617) 565–7240

55 East Monroe Street, Suite 1437
Chicago, Illinois 60603
(312) 353–4423

668 Euclid Avenue, Suite 520–A
Cleveland, Ohio 44114
(216) 522–4207

100 N. Central Expressway, Suite 500
Dallas, Texas 75201

(214) 767–5501

1405 Curtis Street, Suite 2900
Denver, Colorado 80202–2392
(303) 844–2271

11000 Wilshire Boulevard, Suite 13209 Los Angeles, California 90024
(310) 575–7575

150 William Street, Suite 1300
New York, New York 10038
(212) 264–1207

901 Market Street, Suite 570
San Francisco, California 94103
(415) 744–7920

2806 Federal Building, 915 Second Avenue
Seattle, Washington 98174
(206) 553–4656

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order from Marshall Field & Company, a corporation ("the respondent"). This agreement requires the respondent to cease and desist from failing to provide the required disclosures outlined in Section 615(a) of the Fair Credit Reporting Act whenever employment is denied either wholly or partly because of information contained in a consumer report from a consumer reporting agency. Additionally, the agreement requires the respondent to mail Commission informational brochures and letters that disclose required information to all applicable applicants who were not accepted for employment during a specified two year period.

The proposed consent order has been placed on the public record for sixty (60) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action, or make final the proposed order contained in the agreement.

This matter concerns the denial of employment based on information obtained from consumer reporting agencies. The complaint accompanying the proposed consent order alleges that in connection with its employment practices, the respondent engaged in acts and practices in violation of Section 615(a) of the Fair Credit Reporting Act and Section 5(a)(1) of the Federal Trade Commission Act.

According to the complaint, the respondent has denied applications or rescinded offers for employment based in whole or in part on information supplied by a consumer reporting agency, but has failed to advise consumers that the information so supplied contributed to the adverse action taken on their applications. The complaint also alleges that the respondent has failed to advise consumers of the name and address of the consumer reporting agency that supplied the information, in violation of Section 615(a) of the Fair Credit Reporting Act.

Further, the complaint alleges that by its failure to comply with Section 615(a) of the Fair Credit Reporting Act and pursuant to Section 621(a) of the Fair Credit Reporting Act, respondent has engaged in unfair and deceptive acts or practices in or affecting commerce in violation of Section 5(a)(1) of the Federal Trade Commission Act.

The consent order contains provisions designed to ensure that the respondent does not engage in similar allegedly illegal acts and practices in the future. Specifically, Part I of the Order requires the respondent to cease and desist from failing to provide the required disclosures outlined in Section 615(a) of the Fair Credit Reporting Act whenever employment is denied either wholly or partly because of information contained in a consumer report from a consumer reporting agency.

Further, Part I of the Order requires the respondent, within ninety (90) days after the date of service of the order, to mail Commission brochures and letters to each consumer denied employment based in whole or in part on information contained in a consumer report from a consumer reporting agency between August 1, 1990, and the date the order becomes effective. Each letter to consumers against whom adverse action was taken based on a consumer report from a consumer reporting agency must provide the name and address of the consumer reporting agency that supplied the report in question.

Part II of the Order requires the respondent, its successors, and assigns to maintain documents for five (5) years, commencing with the service of this Order demonstrating compliance with the order for the current year and to make all such documents available to the Commission upon request.

Part III of the Order requires the respondent for at least five years to deliver a copy of the Order to each present and future officer and all present and future employees responsible for the respondent's compliance with Section 615(a) of the Fair Credit Reporting Act.

Part IV of the Order requires the respondent for a period of five years to notify the Commission at least thirty (30) days prior to any proposed change in its corporate structure that may affect its compliance with the Order.

Part V of the Order requires the respondent to file a written report with the Commission within one hundred twenty (120) days after service of the Order detailing the manner and form in which it has complied with the Order.

The purpose of this analysis is to facilitate public comment on the proposed Order, and it is not intended to constitute an official interpretation of the agreement and proposed Order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 93–12316 Filed 5–24–93; 8:45 am]

BILLING CODE 6750–01–M

[File No. 931 0047]

Monsanto Company; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would permit, among other things, a St. Louis-based manufacturer of chemicals, including lawn and garden products, to complete the proposed acquisition of Ortho Consumer Products Div. of Chevron Corp., provided that it divests certain assets to Commission-approved acquirers within one year. It also would prohibit Monsanto, for a period of 10 years, from acquiring, without prior Commission approval, an interest in any company engaged in the manufacture or formulation for sale in the U.S. of any non-selective herbicide for residential use.

DATES: Comments must be received on or before July 26, 1993.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Howard Morse, FTC/H–394, Washington, DC 20580. (202) 326–2949.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on

the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order

The Federal Trade Commission ("Commission") having initiated an investigation of the proposed acquisition by Monsanto Company ("Monsanto"), a corporation, of the assets of the Ortho Consumer Products Division from Chevron Corporation ("Chevron"), a corporation, and it now appearing that Monsanto, hereinafter sometimes referred to as "proposed respondent," is willing to enter into an Agreement Containing Consent Order ("Agreement") to divest certain assets, to cease and desist from certain acts, and to provide for certain other relief,

It is hereby agreed by and between Monsanto Co., by its duly authorized officers and its attorneys, and counsel for the Commission that:

1. Proposed respondent Monsanto is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its principal place of business located at 800 North Lindbergh Boulevard, St. Louis, Missouri 63167.

2. Chevron Corporation is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its principal place of business located at 225 Bush Street, San Francisco, CA 94104.

3. Proposed respondent admits all the jurisdictional facts set forth in the draft of Complaint here attached.

4. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this Agreement; and

(d) Any claim under the Equal Access to Justice Act.

5. This Agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this Agreement is accepted by the Commission it, together with the draft of Complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this Agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its Complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

6. This Agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of Complaint here attached, or that the facts as alleged in the draft complaint, other than jurisdictional facts, are true.

7. This Agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission, the Commission may, without further notice to proposed respondent, (1) issue a Complaint corresponding in form and substance to the draft of Complaint here attached and its decision containing the following Order to divest and cease and desist, and (2) make information public with respect thereto. When so entered, the Order shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The Order shall become final upon service. Delivery by the United States Postal Service of the Complaint and decision containing the agreed-to Order to proposed respondent's address as stated in this Agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The Complaint may be used in construing the terms of the Order, and no agreement, understanding, representation, or interpretation not contained in the Order may be used to vary or contradict the terms of the Order.

8. Proposed respondent has read the proposed Complaint and Order contemplated hereby. Monsanto understands that once the Order has been issued, Monsanto will be required to file one or more compliance reports showing it has fully complied with the Order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the Order after it becomes final.

Order

I

It is ordered that, as used in this Order, the following definitions shall apply:

A. "Monsanto" means Monsanto Company, its predecessors, successors and assigns, divisions, subsidiaries, affiliates, companies, groups, partnerships and joint ventures that Monsanto Company controls, directly or indirectly, and their directors, officers, employees, agents and representatives, and their respective successors and assigns.

B. "Chevron" means Chevron Corporation, its predecessors, successors and assigns, divisions, subsidiaries, affiliates, companies, groups, partnerships and joint ventures that Chevron Corporation controls, directly or indirectly, and their directors, officers, employees, agents and representatives, and their respective successors and assigns.

C. "Acquisition" means the acquisition by Monsanto from Chevron of the assets of the Ortho Consumer Products Division of Chevron, as referenced in Commission Premerger Report Number 93–0514.

D. "Chevron Assets" means:

1. The Kleenup Assets;

2. The Shackle C Assets; and

3. the Formula II Assets.

E. "Kleenup Assets" means the brand or trademark "Kleenup" obtained by Monsanto in connection with the Acquisition and used by Chevron for nonselective herbicides; *provided, however,* that the Ortho brand or trademarks and trade dress are not part of the Kleenup Assets or the Chevron Assets and need not be divested pursuant to this Order.

F. "Shackle C Assets" means the irrevocable rights to acquire, through September 19, 2000, a total of 102,455 gallons of the Shackle C product described in the product specification attached hereto as Exhibit A.

G. "Formula II Assets" means all rights, title and interest in and to any formulation of nonselective herbicide products for residential use obtained by Monsanto in connection with the Acquisition intended for sale by Chevron as a substitute for the current glyphosate-based herbicide products sold by Chevron under the brand or trademark "Kleenup", as set forth in Exhibit B attached hereto.

H. "EPA" means the United States Environmental Protection Agency.

II

It is further ordered that:

For purposes of protecting interim competition pending the introduction of new glyphosate-based herbicide suppliers pursuant to Paragraph III of this Order, including necessary governmental approvals, Monsanto shall:

A. For a period of twelve (12) months after this Order becomes final, offer to sell to each current purchaser, except Chevron, of Shackle C for use in the formulation of nonselective herbicide products for residential use in the United States up to one hundred fifty percent (150%) of the volume of Shackle C that such customer purchased during the twelve (12) months preceding the date on which this Order becomes final, under the terms and conditions of the customer's existing contract. If the divestitures of the Shackle C Assets or Kleenup Assets are not accomplished within twelve (12) months after the date on which this Order becomes final, the requirements of this Paragraph II.A. shall be extended until such divestitures are accomplished.

B. Offer to formulate and sell to each person that acquires the Shackle C Assets, pursuant to Paragraph III.B of this Order, a portion of such Shackle C Assets in the form of glyphosate-based herbicides using any of all of the formulations sold by Chevron at the time of the Acquisition, for such acquirer's resale pending the acquirer's obtaining of the necessary federal regulatory agency approval to formulate, distribute and sell nonselective, glyphosate-based herbicides for residential use. Such offer by Monsanto to formulate the acquirer's Shackle C shall be on a cost-plus basis and other commercially reasonable terms for a fixed period of up to twelve (12) months from the date on which the acquirer is approved by the Commission. If an acquirer fails to secure the necessary federal regulatory agency approval to formulate, distribute and sell nonselective, glyphosate-based herbicides for residential use within twelve (12) months after the date on which the acquirer is approved by the Commission, the requirements of this Paragraph II.B shall be extended for such acquirer for up to an additional twelve (12) months pending such approval.

III

It is further ordered that within twelve (12) months after the date on which this Order becomes final, Monsanto shall divest, absolutely and in good faith, the Chevron Assets in accordance with the following:

A. The divestiture of the Kleenup Assets shall be only to an acquirer that receives the prior approval of the Commission and in a manner that receives the prior approval of the Commission. The acquirer of the Kleenup Assets shall also be an acquirer of Shackle C Assets pursuant to Paragraph III.B. of this Order. Any divestiture agreement shall include a requirement that for a period of three (3) years after the date on which this Order becomes final, such acquirer's interests in and rights to the Kleenup Assets shall not be assignable except upon the prior approval of the Commission. The purpose of the divestiture is to remedy the lessening of competition resulting from the Acquisition as alleged in the Commission's Complaint and to enable the acquirer to formulate and sell nonselective herbicides for residential use.

(1) Monsanto shall make available to the acquirer of the Kleenup Assets access to such Monsanto personnel (including, but not limited to, former Chevron personnel employed by Monsanto), assistance and training as the acquirer reasonably needs (for a period of time not to exceed six (6) months from the date on which the acquirer is approved by the Commission), to transfer the Kleenup Assets to the acquirer.

(2) Monsanto shall provide such cooperation and assistance to the acquirer of the Kleenup Assets under this Order as are reasonably necessary to enable the acquirer to formulate and sell nonselective herbicides for residential use.

B. The divestiture of the Shackle C Assets shall be to an acquirer or acquirers that receive the prior approval of the Commission and only in a manner that receives the prior approval of the Commission; *provided, however,* that Monsanto shall not be required to divest to more than three (3) acquirers. If there is more than one acquirer of the Shackle C Assets, one such acquirer must also be the acquirer of the Kleenup Assets under Paragraph III.A. of this Order. Any divestiture agreement shall include a requirement that for a period of three (3) years after the date on which this Order becomes final, such acquirer's interests in and rights to the Shackle C Assets shall not be assignable except upon the prior approval of the Commission. The purpose of the divestiture is to remedy the lessening of competition resulting from the Acquisition as alleged in the Commission's Complaint and to enable the acquirer or acquirers to formulate and sell nonselective, glyphosate-based herbicides for residential use.

(1) At the time of the divestiture, Monsanto shall make available to each acquirer of the Shackle C Assets access to such Monsanto personnel (including, but not limited to, former Chevron personnel employed by Monsanto), assistance and training as each acquirer reasonably needs (for a period of time not to exceed six (6) months from the date on which the acquirer is approved by the Commission), to transfer the Shackle C Assets to the acquirer.

(2) Monsanto shall grant to each acquirer, (a) nonexclusive rights to any and all research and development, technical information, know-how, patents and all EPA and other federal and state regulatory agency filings and registrations of Chevron relating to nonselective, glyphosate-based herbicides (including, without limitation, combinations of glyphosate and one or more other active ingredients), and (b) for as long as the acquirer holds rights to Shackle C Assets obtained pursuant to Paragraph III of this Order, nonexclusive rights to reference any Monsanto test data for nonselective, glyphosate-based herbicides for purposes of obtaining governmental regulatory approvals, to the extent that Chevron had such rights prior to the Acquisition.

(3) Monsanto shall provide such cooperation to each acquirer of the Shackle C Assets under this Order (including, but not limited to, cooperation in obtaining EPA registrations and any other governmental regulatory approvals to the extent that Chevron had such registrations and approvals prior to the Acquisition) necessary to formulate, distribute and sell nonselective, glyphosate-based herbicides for residential uses in any form (including, but not limited to, in any glyphosate concentration); *provided, however,* that Monsanto shall have no obligation to conduct additional studies to develop data solely for any such acquirer.

(4) In connection with the divestiture of Chevron Assets under this Order, Monsanto shall not restrict the ability of any acquirer of the Shackle C Assets to use, or to acquire the right to use, any active ingredient other than glyphosate, nor shall Monsanto restrict the ability of any acquirer to make any lawful product comparison in the labeling, advertising or other promotion of its glyphosate-based product.

C. The divestiture of the Formula II Assets shall be only to an acquirer that receives the prior approval of the Commission and only in a manner that receives the prior approval of the Commission. The divestiture shall include a requirement that for a period of three (3) years after the date on which this Order becomes final such acquirer's interests in and rights to the Formula II Assets shall not be assignable except upon the prior approval of the Commission. The purpose of the divestiture is to remedy the lessening of competition resulting from the

Acquisition as alleged in the Commission's Complaint and to enable the acquirer to formulate and sell nonselective herbicides for residential uses.

(1) Monsanto shall make available to the acquirer of the Formula II Assets access to such Monsanto personnel (including, but not limited to, former Chevron personnel employed by Monsanto), assistance and training as each acquirer reasonably needs (for a period not to exceed six (6) months from the date on which the acquirer is approved by the Commission), to transfer the Formula II Assets to the acquirer.

(2) Monsanto shall provide reasonable cooperation to the acquirer of the Formula II Assets under this Order, including, but not limited to, cooperation in obtaining nonexclusive rights to such additional Chevron research and development, technical information, know-how, patents and EPA and other federal and state regulatory agency filings and registrations of Chevron as Chevron (a) has used in the development of Formula II products for residential use or (b) contemplates using to make or market Formula II products for such use.

IV

It is further ordered that, pending divestiture of the Chevron Assets, Monsanto shall take such action as is necessary to maintain the viability and marketability of the Chevron Assets (including, but not limited to, research and development, technical information, know-how, patents and EPA filings and registrations) and shall not cause or permit any destruction, removal, wasting, deterioration or impairment of those assets, except for ordinary wear and tear in the ordinary course of business that does not affect the viability and marketability of the Chevron Assets.

V

It is further ordered that:

A. If Monsanto has not fully complied, absolutely and in good faith, with Paragraph III of this Order within the time period provided in such Paragraph, Monsanto shall consent to the appointment by the Commission of a trustee to divest the remaining portion(s) of the Chevron Assets. In the event the Commission or the Attorney General brings an action pursuant to section 5(*l*) of the Federal Trade Commission Act, 15 U.S.C. 45(*l*), or any other statute enforced by the Commission, Monsanto shall consent to the appointment of a trustee in such action. Neither the appointment of a trustee nor a decision not to appoint a trustee under this Paragraph shall preclude the Commission or the Attorney General from seeking civil penalties or any other available relief, including a court-appointed trustee, for any failure by Monsanto to comply with this Order.

B. If a trustee is appointed by the Commission or a court pursuant to Paragraph V.A. of this Order, Monsanto shall consent to the following terms and conditions regarding the trustee's powers, duties, authorities, and responsibilities:

(1) The Commission shall select the trustee, subject to the consent of Monsanto, which consent shall not be unreasonably withheld. The trustee shall be a person with experience and expertise in acquisitions and divestitures. If Monsanto has not opposed, in writing, the selection of any proposed trustee within fifteen (15) days after notice by the staff of the Commission to Monsanto of the identity of any proposed trustee, Monsanto shall be deemed to have consented to the selection of the proposed trustee.

(2) Subject to the prior approval of the Commission, the trustee shall have the exclusive power and authority to divest the Chevron Assets, and to make any further arrangements that may be reasonably necessary to assure the viability and competitiveness of the pertinent assets.

(3) The trustee shall have twelve (12) months from the date the Commission approves the trust agreement described in Paragraph V.B(8) to accomplish the divestiture. If, however, at the end of the twelve-month period, the trustee has submitted a plan of divestiture or believes that divestiture can be accomplished within a reasonable time, the divestiture period may be extended by the Commission or, in the case of a court-appointed trustee, by the court.

(4) The trustee shall have full and complete access to the personnel, books, records, and facilities related to the Chevron Assets, or any other relevant information, as the trustee may reasonably request. Monsanto shall develop such financial or other information as such trustee may reasonably request and shall cooperate with any reasonable request of the trustee. Monsanto shall take no action to interfere with or impede the trustee's accomplishment of the divestiture. Any delays in divestiture caused by Monsanto shall extend the time for divestiture under Paragraph V.B(3) in an amount equal to the delay, as determined by the Commission or, for a court-appointed trustee, by the court.

(5) Subject to Monsanto's absolute and unconditional obligation to divest at no minimum price, the trustee shall use his or her best efforts to negotiate the most favorable price and terms available with each acquirer for the divestiture. The divestiture shall be made in the manner and to the number of acquirers set out in Paragraph III of this Order.

(6) The trustee shall serve, without bond or other security, at the cost and expense of Monsanto, on such reasonable and customary terms and conditions as the Commission or a court may set. The trustee shall have authority to employ, at the cost and expense of Monsanto, such consultants, accountants, attorneys, investment bankers, business brokers, appraisers, and other representatives and assistants as are reasonably necessary to carry out the trustee's duties and responsibilities. The trustee shall account for all monies derived from the divestiture and all expenses incurred. After approval by the Commission and, in the case of a court-appointed trustee, by the court, of the account of the trustee, including fees for his or her services, all remaining monies shall be paid at the direction of Monsanto and the trustee's power shall be terminated. The trustee's compensation shall be based in significant part on a commission arrangement contingent on the trustee's divesting the Chevron Assets.

(7) Monsanto shall indemnify the trustee and hold the trustee harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the trusteeship, including all reasonable fees of counsel and other expenses incurred in connection with the preparation for or defense of any claim, whether or not resulting in any liability, except to the extent that such liabilities, losses, damages, claims, or expenses result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the trustee.

(8) Within ten (10) days after appointment of the trustee, and subject to the prior approval of the Commission and, in the case of a court-appointed trustee, of the court, Monsanto shall execute a trust agreement that transfers to the trustee all rights and powers necessary to permit the trustee to effect the divestitures required by this Order.

(9) If the trustee ceases to act or fails to act diligently, a substitute trustee shall be appointed in the same manner as provided in Paragraph V.A. of this Order.

(10) The Commission or, in the case of a court-appointed trustee, the court may on its own initiative or at the

request of the trustee issue such additional orders or directions as may be necessary or appropriate to accomplish the divestiture required by this Order.

(11) The trustee shall have no obligation or authority to operate or maintain the Chevron Assets.

(12) The trustee shall report in writing to Monsanto and to the Commission every sixty (60) days concerning the trustee's efforts to accomplish divestiture.

VI

It is further ordered that, within sixty (60) days after the date on which this Order becomes final and every sixty (60) days thereafter until Monsanto has fully complied with the provisions of Paragraphs II, III, IV, and V of this Order, Monsanto shall submit to the Commission a verified written report setting forth in detail the manner and form in which it intends to comply, is complying, or has complied with those provisions. Monsanto shall include in its compliance reports, among other things that are required from time to time, a full description of all substantive contacts or negotiations for the divestiture of the Chevron Assets, including the identities of all parties contacted. Monsanto also shall include in its compliance reports copies of all written communications to and from such parties, all internal memoranda, and all reports and recommendations concerning divestiture.

VII

It is further ordered that, for a period of ten (10) years from the date on which this Order becomes final, Monsanto shall not, without the prior approval of the Commission, directly or indirectly:

A. Acquire any stock, share capital, equity or other interest in any concern, corporate or non-corporate, engaged in the manufacture or formulation (either directly or by contract) for sale in the United States of any nonselective herbicide for residential use.

B. Acquire the brand or trademark of any nonselective herbicide for residential use used in the United States.

C. Acquires from any other person the exclusive rights to manufacture, distribute or sell for residential use in or to the United States a pesticidal active ingredient (within the meaning of 7 U.S.C. 136(u)) that contributes significantly to the actual or perceived efficacy of any nonselective herbicide.

On the anniversary of the date on which this Order becomes final, and on every anniversary thereafter for the following nine (9) years, Monsanto shall file with the Commission a verified written report of its compliance with this Paragraph VII of this Order.

VIII

It is further ordered, that, for the purposes of determining or securing compliance with this Order, and subject to any legally recognized privilege, upon written request and on reasonable notice of Monsanto, Monsanto shall permit any duly authorized representatives of the Commission:

A. Access, during office hours and in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of Monsanto relating to any matters contained in this Order; and

B. Upon five (5) days' notice to Monsanto and without restraint or interference from Monsanto, to interview officers or employees of Monsanto, who may have counsel present, regarding such matters.

X

It is further ordered that Monsanto shall notify the Commission at least thirty (30) days prior to any change in Monsanto such as dissolution, assignment, or sale resulting in the emergence of a successor, the creation of dissolution of domestic subsidiaries, or any other change that may affect compliance obligations arising out of this Order.

Exhibit A—Monsanto Agricultural Company Product Specification

Note: This Exhibit A is not published in the **Federal Register**. Copies are available from the Commission's Public Reference Branch, H–130, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580.

Exhibit B

The Formula II assets identified in Paragraph I.G. of this Order shall include all rights obtained by Monsanto in connection with the Acquisition relating specifically to the formulation of a nonselective lawn and garden herbicide product developed or currently under development by Chevron as replacement or substitute for Chevron's Kleenup products and including as active ingredients a combination of 24D, MCPP, fusilade and diquat. The Formula II assets include, without limitation, the following.

(1) All Environmental Protection Agency and other federal and state regulatory agency registrations and applications for Formula II products, including the precise recipe or mixture of the four active ingredients and the toxicology, stability, effectiveness, and such other studies as were conducted to support the EPA or other regulatory applications.

(2) All rights, title and interest in and to the contracts, if any, entered in the ordinary course of business with customers (together with associated bid and performance bonds), suppliers, sales representatives, brokers and distributors, agents, inventors, product testing and laboratory research institutions, providers of electronic data exchange services, personal property lessors, personal property lessees, licensors, licensees, consignors and consignees relating exclusively to Formula II products.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (Commission) has accepted, subject to final approval, an Agreement Containing Consent Order from Monsanto Company (Monsanto).

The proposed Consent Order (Order) has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the Agreement and the comments received and will decide whether it should withdraw from the Agreement or make final the Agreement's proposed Order.

The Commission's investigation of this matter concerned Monsanto's proposed acquisition of the asses and rights necessary to the continued operation of Chevron Chemical Company's Ortho Consumer Products Divisions (Ortho). Both Monsanto and Ortho formulate and sell residential non-selective herbicides in the United States and are direct and substantial competitors with respect to non-selective herbicides for residential use.

The Commission has reason to believe that Monsanto's acquisition of Ortho would substantially lessen competition in the United States residential non-selective herbicide market, which consists of manufacturing or formulating, marketing and selling non-selective herbicide products for residential use in the general control of brush plants, weeds and grasses, in violation of section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45. The proposed Order, if issued by the Commission, would settle the Complaint that alleges anticompetitive effects in the United States residential non-selective herbicide market.

Under the terms of the proposed Order, Monsanto shall divest to no more than three (3) Commission-approved acquirers the Shackle C Assets, which include Ortho's inventory of and right to 102,455 gallons of Shackle C (the technical name for glyphosate, the active ingredient in Monsanto's Roundup brand herbicide and Ortho's Kleenup brand herbicide). To one of the acquirers of the Shackle C Assets, Monsanto shall also divest the Kleenup Assets, which include formulations for Kleenup products and the Kleenup trademark. Monsanto shall also divest the Formula II Assets, which include formulations for Formula II, a new herbicide formulation that Ortho was seeking to have registered with the United States Environmental Protection Agency. Monsanto will provide to the acquirers of the Shackle C Assets, Kleenup Assets, and Formula II Assets such access to such Monsanto personnel and assistance and training as are necessary to transfer those assets. Pending the divestitures required under the proposed Order, Monsanto has agreed to offer to sell to each current purchaser of Shackle C up to one hundred fifty percent (150%) of the volume of Shackle C the customer purchased during the twelve (12) months preceding the date on which the proposed Order becomes final. This provision of the proposed Consent Order is aimed at helping to remedy the loss of interim competition likely to result from the proposed acquisition.

Under the proposed Order, Monsanto would have twelve (12) months from the date the proposed Order becomes final to divest the Kleenup, Shackle C, and Formula II Assets. The divestitures shall be made only to an acquirer or acquirers that receive the prior approval of the Commission. If Monsanto fails to divest the assets to an approved acquirer within twelve (12) months of the proposed Order's becoming final, Monsanto shall consent to the Commission's appointment of a trustee to complete the divestitures. Pending completion of all divestitures required under the proposed Order, Monsanto would be required to maintain the viability and marketability of the assets to be divested.

The proposed Order would also prohibit Monsanto, for a period of ten (10) years from the date the proposed Order becomes final, from acquiring, without the prior approval of the Commission, any interest in any concern engaged in the manufacture or formulation for sale in the United States of any non-selective herbicide for residential use.

It is anticipated that the proposed Order would resolve the competitive problems alleged in the Complaint. The purpose of this analysis is to facilitate public comment on the proposed Order, and it is not intended to constitute an official interpretation of the agreement and proposed Order or to modify in any way their terms.

Donald S. Clark,
Secretary.

Concurring Statement of Commissioner Dennis A. Yao

In the Matter of Proposed Acquisition by Monsanto Co. of the Ortho Consumer Products Division of Chevron Chemical Co. File No. 931–0047

I concur with the Commission's vote to condition Monsanto's acquisition of Ortho's assets on the divestiture of the Kleenup brand name, related formulas, and the inventory of and certain purchase rights for Monsanto's patented product, glyphosate, currently held by Ortho. I write to address some of the economic issues raised by a proposed acquisition that would merge two competing products and would include a reacquisition of patented product by the patent holder.

Since Ortho's glyphosate inventory was acquired from Monsanto, the patent holder, one might argue that Monsanto's reacquisition of its own patented product would not entail any enlargement of patent power. This view, however, would oversimplify the economic analysis that is appropriate in a case like this. A critical fact here is that the proposed acquisition involves not only a reacquisition of patent rights or patented product alone, but also an acquisition of other assets whose value is significantly intertwined with that of the patented product. Regardless of how one would assess a reacquisition of patent rights or patented product alone, an acquisition of such a combination of assets by the patent holder potentially raises antitrust concerns.

The importance of assets that are related to the patent or patented product is underscored by the fact that a significant commercial value is generally achieved only when a patented idea is combined with complementary assets—for example, productive capital, technology, a brand name, or a marketing and distribution network. Complementary assets can be characterized as either general or specific. A specific asset is one whose value is diminished when it is redeployed to its next-best use.[1] Once complementary assets add to the value of a patented idea, it is often difficult to disentangle what components of value derive from the patented idea itself or from other assets. This is particularly true for specific assets because, by definition, the value of optimally combined specific assets is more than the sum of its parts.

Specific complementary assets are potentially a source of product differentiation, which often makes it difficult for a patent holder to gain monopoly profit merely by controlling the price and quantity of the patented input. Moreover, the next-best use of these assets could be in combination with other inputs to form a new rival product that competes with products based on the patented idea. For these reasons, the acquisition or merger of such assets may have an anticompetitive effect. Indeed, it may be argued that the more specific the assets, the greater the potential for anticompetitive effect.

In this case, it appears that the two glyphosate-based products, Monsanto's Roundup and Ortho's Kleenup, are differentiated products, using different formulas and reflecting different brand name images. Therefore, Monsanto's proposed acquisition of Ortho involves a patented product and several specific complementary assets potentially relevant to the residential nonselective herbicide market: Ortho's inventory of and purchase rights of glyphosate products, the Ortho brand name and specialized distribution network, and the Kleenup brand name and formula. The Kleenup brand name is linked directly to the market for residential nonselective herbicides and to the functional properties of glyphosate as well.

Thus, this transaction involves more than simply a reacquisition of patented products. Among other things, the proposed acquisition would eliminate brand name competition between Monsanto's Roundup and Ortho's Kleenup, raising the concentration of assets in the market for residential nonselective herbicides and likely increasing Monsanto's ability unilaterally to exercise market power in the relevant market.

Divestiture of the Kleenup brand name and related formulas mitigates the likely anticompetitive effects of the merger, particularly when combined with divestiture of the Ortho glyphosate inventory and purchase rights, which increases the value of the divested Kleenup brand name by permitting Kleenup to remain a glyphosate

[1] Possible examples of specific assets are specialized plant and equipment, a unique production technology, a product's particular brand name image, or a specialized distribution network.

product. For this and other reasons, I concur.

[FR Doc. 93–12317 Filed 5–24–93; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Final Funding Priorities for Grants for Health Education and Training Centers for Fiscal Year 1993

The Health Resources and Services Administration (HRSA) announces the final funding priorities for fiscal year (FY) 1993 for Grants for the Health Education and Training Centers (HETC) Program under the authority of section 746(f) (previously section 781(f)) of the Public Health Service Act (the Act), as amended by the Health Professions Education Extension Amendments of 1992, Public Law 102–408, dated October 13, 1992.

Eligibility and Purpose

Eligible applicants are schools of allopathic or osteopathic medicine, or the parent institution on behalf of these schools, or a consortium of them. Assistance is for planning, developing, establishing, maintaining, and operating Health Education and Training Centers. Such support is designed to improve the supply, distribution, quality, and efficiency of personnel providing health services in the State of Florida or (in the United States) along the border between the United States and Mexico or providing, in other urban and rural areas (including frontier areas) of the United States, health services to any population group, including Hispanic individuals and recent refugees, that has demonstrated serious health care needs. Assistance is also to encourage health promotion and disease prevention through public education.

Final Funding Priorities for Fiscal Year 1993

Proposed funding priorities were published in the **Federal Register** dated March 17, 1993, 58 FR 14411, for public comment. No comments were received during the 30-day comment period. Therefore, as proposed, the final funding priorities will be retained as follows:

In making awards in FY 1993, a funding priority will be given to:

1. Applicants which propose to implement HETC training programs for a minimum of 50 underrepresented minority trainees annually in Health Professional Shortage Areas (HPSAs) or Medically Underserved Areas (MUAs). The term "underrepresented minorities" means, with respect to a health profession, racial and ethnic populations that are underrepresented in the health profession relative to the number of individuals who are members of the population involved. For this program, it means American Indians or Alaskan Natives, Blacks, Hispanics, and, potentially, various subpopulations of Asian individuals. Applicants must evidence that any particular subgroup of Asian individuals is underrepresented in a specific discipline.

2. Applicants which propose to implement a substantial Public Health training experience (of 4 to 8 weeks for a minimum of 25 trainees, annually) in one or more of the following training sites: (1) Facilities operated by a State or local health department; (2) a Migrant Health Center designated under section 329 of the PHS Act; (3) a Community Health Center designated under section 330 of the PHS Act; or (4) hospitals or other health care facilities of the Indian Health Service. If such training sites are unavailable in a proposed HETC service area, applicants may propose comparable public health training experiences (e.g., a 4 to 8 week community health project supervised by a rural preceptor). Trainees participating in activities described in Priority Nos. 1 and 2 may include: students pursuing health professions education, medicine, nursing; students pursuing nurse practitioner, certified nurse midwifery, or physician assistant training; residents (in family medicine, general internal medicine, general pediatrics, or preventive medicine); community health worker trainees (indigenous to the area); dentists, nurses, physicians, or environmental health personnel pursuing a training program in Public Health.

3. Applicants which propose to have as part of the advisory group, as described in section 746(f)(4), at least one designated representative from a health department in the area being served.

Additional Information

If additional programmatic information is needed, please contact: Ms. Cherry Y. Tsutsumida, Chief, AHEC and Special Programs Branch, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, room 4C–03, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–6950, FAX: (301) 443–8890.

This program is listed at 93.189 in the Catalog of Federal Domestic Assistance. It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100).

This program is not subject to the Public Health System Reporting Requirements.

Dated: May 19, 1993.

Robert H. Harmon,

Administrator.

[FR Doc. 93–12313 Filed 5–24–93; 8:45 am]

BILLING CODE 4160–15–P

Public Health Service

Statement of Organization, Functions, and Delegations of Authority; Office of the Assistant Secretary for Health

Part H, Public Health Service (PHS), Chapter HD (Public Health Service Regional Offices, HD1–HDX), of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (DHHS) (42 FR 61318, December 2, 1977, as amended most recently at 55 FR 50058, December 4, 1990) is amended to reflect the title change of the Division of Federal Employee Occupational Health, PHS Regions 1–X, Office of the Assistant Secretary for Health.

Public Health Service Regional Offices

Under *Chapter HD, Public Health Service Regional Offices, Section HD–10, Organization,* change the title of the *Division of Federal Employee Occupational Health (HD*H)* to *Division of Federal Occupational Health (HD*H).*

Under *Section HD–20, Functions, Public Health Service (PSH) Regional Offices (HD1–HDX), delete* the title *Division of Federal Employee Occupational Health (HD*H),* and *add* the title *Division of Federal Occupational Health (HD*H).*

Dated: May 15, 1993.

Anthony L. Itteilag,

Deputy Assistant Secretary for Health Management Operations.

[FR Doc. 93–12261 Filed 5–24–93; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF THE INTERIOR

National Park Service

Golden Gate National Recreation Area and Point Reyes National Seashore Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Golden Gate National Recreation Area and Point Reyes National Seashore Advisory Commission will be held at 1 p.m. (PDT) on Saturday, June 12, 1993, at West Marin School in Point Reyes Station, California to hear presentations on issues related to management of the Point Reyes National Seashore and adjoining Golden Gate National Recreation lands.

The Advisory Commission was established by Public Law 92–589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service systems in Marin, San Francisco and San Mateo Counties. Members of the Commission are as follows:

Mr. Richard Bartke, Chairman
Ms. Amy Meyer, Vice Chair
Mr. Ernest Ayala
Dr. Howard Cogswell
Brig. Gen. John Crowley, USA (ret)
Mr. Margot Patterson Doss
Mr. Neil D. Eisenberg
Mr. Jerry Friedman
Mr. Steve Jeong
Ms. Daphne Greene
Ms. Gimmy Park Li
Mr. Gary Pinkston
Mr. Merritt Robinson
Mr. R. H. Sciaroni
Mr. John J. Spring
Dr. Edgar Wayburn
Mr. Joseph Williams
Mr. Mel Lane

Included on the agenda for this public meeting will be:

1. Status report on tule elk management at Pierce Point
2. Status report on range management at Point Reyes
3. Report on the Giacomini Wetlands Feasibility Study
4. Report on the proposed Point Reyes National Seashore Protection Act

Interested individuals, representatives of organizations, and public officials are invited to express their views in person at the June 12 public meeting. No action is anticipated on these issues by the Advisory Commission.

This meeting will be recorded for documentation and transcribed for dissemination. Minutes of the meeting will be available to the public after approval of the full Advisory Commission. A transcript for this meeting is available after July 2, 1993. For copies of the minutes contact the Office of the Staff Assistant, Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, California 94123.

Dated: May 14, 1993.

Lewis Albert,

Acting Regional Director, Western Region.

[FR Doc. 93–12279 Filed 5–24–93; 8:45 am]

BILLING CODE 4310–70–P

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before May 15, 1993. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013–7127. Written comments should be submitted by June 9, 1993.

Patrick W. Andrus,

Acting Chief of Registration, National Register.

Arizona

Apache County

Water Canyon Administrative Site [Depression/Era USDA Forest Service Administrative Complexes in Arizona MPS], Forest Rd. 285 S of Springerville, Apache—Sitgreaves NF, Springerville vicinity, 93000511

Cochise County

Cima Park Fire Guard Station (Depression-ERA USDA Forest Service Administrative Complexes in Arizona MPS). In Chiricahua Wilderness NE of Douglas, Coronado, NF, Douglas vicinity, 93000514

Portal Ranger Station (Depression-Era USDA Forest Service Administrative Complexes in Arizona MPS), Forest Rd. 42A SW of Portal, Coronado NF, Portal vicinity, 93000517

Rustler Park Fire Guard Station (Depression-Era USDA Forest Service Administrative Complexes in Arizona MPS), SE of Chiricahua NM, Coronado NF, Douglas vicinity, 93000518

Coconion County

Big Springs Ranger Station (Depression-Era USDA Forest Service Administrative Complexes in Arizona MPS), Along Ryan Rd., Kaibab NF, Big Springs vicinity, 93000519

Camp Clover Ranger Station (Depression-Era USDA Forest Service Administrative Complexes in Arizona MPS), Off US 66/89 SW of Williams, Kaibab NF, Williams vicinity, 93000520

Moqui Ranger Station (Depression-Era USDA Forest Service Administrative Complexes in Arizona MPS), Off US 180 of Tusayan, Kaibab NF, Tusayan vicinity, 93000521

Gila County

Pinal Ranger Station (Depression-Era USDA Forest Service Administrative Complexes in Arizona MPS), S of Globe, Tonto NF, Globe vicinity, 93000526

Pleasant Valley Ranger Station (Depression-Era USDA Forest Service Administrative Complexes in Arizona MPS), S of AZ 288, Tonto NF, Young vicinity, 93000527

Graham County

Columbine Work Station (Depression-Era USDA Forest Service Administrative Complexes in Arizona MPS), AZ 366 SW of Stafford, Coronado NF, Safford vicinity, 93000516

Maricopa County

Sunflower Ranger Station (Depression-Era USDA Forest Service Administrative Complexes in Arizona MPS), AZ 87 W of Punkin Center, Tonto NF, Punkin Center vicinity, 93000528

Navajo County

Pinedale Ranger Station (Depression-Era USDA Forest Service Administrative Complexes in Arizona MPS), Forest Rd. 130 (formerly AZ 260), Apache—Sitgreaves NF, Pinedale vicinity, 93000510

Pima County

Lowell Ranger Station (Depression-Era USDA Forest Service Administrative Complexes in Arizona MPS), Off Sabino Canyon Rd. NE of Tucson, Coronado NF, Tucson vicinity, 93000529

Santa Cruz County

Canelo Ranger Station (Depression-Era USDA Forest Service Administrative Complexes in Arizona MPS), Forest Rd. 528 N of Canelo, Coronado NF, Canelo vicinity, 93000513

Yavapal County

Beaver Creek Ranger Station (Depression-Era USDA Forest Service Administrative Complexes in Arizona MPS), Off I–17 NE of Rimrock, Coconino NF, Rimrock vicinity, 93000512

Cooper Creek Guard Station (Depression-Era USDA Forest Service Administrative Complexes in Arizona MPS), NE of Black Canyon City, Tonto NF, Black Canyon City vicinity, 93000525

Crown King Ranger Station (Depression-Era USDA Forest Service Administrative Complexes in Arizona MPS), W of Crown King, Prescott NF, Crown King vicinity, 93000522

Sycamore Ranger Station (Depression-Era USDA Forest Service Administrative Complexes in Arizona MPS), Forest Rd. 68F SW of Camp Verde, Prescott NF, Camp Verde vicinity, 93000523

Walnut Creek Ranger Station (Depression-Era USDA Forest Service Administrative Complexes in Arizona MPS), NW of Prescott, Prescott NF, Prescott vicinity, 93000524

GEORGIA

Burke County

Waynesboro Commercial Historic District, E. 6th, E. 7th, E. 8th, S. Liberty and Myrick Sts., Waynesboro, 93000496

NEW YORK

Herkimer County

Trinity Episcopal Church—Fairfield, NY 29 (Salisbury St.), Fairfield, 93000499

Oneida County

Doyle Hardware Building, 330—334 Main St., Utica, 93000498

Hurd S. Fitzgerald Building, 400 Main St., Utica, 93000500

Utica Daily Press Building, 310—312 Main St., Utica, 93000501

Tompkins County

Halsey, Nicoll, House and Halseyville Archeological Sites, Address Restricted, Halseyville, 93000504

RHODE ISLAND

Providence County

Ballou—Weadtherhead House, Tower Hill Rd. (Pole 68), Cumberland Hill vicinity, 93000503

Patterson Brothers Commercial Building and House, 157, 159 and 161 Broad St., Valley Falls, 93000502

VIRGINIA

Albemarle County

Sunnyfields, VA 53 W side at jct. with VA 732, Simeon vicinity, 93000509

Craig County

New Castle Historic District (Boundary increase), Boyd, Broad, Court, Main, Market, Middle, Race and Walnut Sts., VA 42 and VA 311, Mitchell Dr. and Salem Ave., New Castle, 93000497

Cumberland County

Cartersville Historic District, Roughly bounded by VA 45, VA 649 and VA 656, Cartersville, 93000505

James City County

Archeological Site No. 44JC303, Address Restricted, Williamsburg vicinity, 93000507

Mecklenburg County

Red Fox Farm, VA 688 E side, 0.7 mi. S of jct. with VA 695, Skipwith vicinity, 93000508

New Kent County

Emmaus Baptist Church, VA 106 W side, 0.4 mi. S of I–64, Providence Forge vicinity, 93000506

[FR Doc. 93–12278 Filed 5–24–93; 8:45 am]

BILLING CODE 4310–70–M

AGENCY FOR INTERNATIONAL DEVELOPMENT

Housing Guaranty Program; Investment Opportunity

The Agency for International Development (A.I.D.) has authorized the guaranty of loans to the Government of Tunisia ("Borrower") as part of A.I.D.'s development assistance program. The proceeds of these loans will be used to finance infrastructure and shelter projects for low-income families in Tunisia. At this time, the Government of Tunisia has authorized A.I.D. to request proposals from eligible lenders for a loan under this program of $14.1 Million U.S. Dollars (U.S. $14,100,000). The name and address of the Borrower's representative to be contacted by interested U.S. lenders or investment bankers, the amount of the loan and project number are indicated below:

Government of Tunisia

Project: 664–HG–004—$14,100,000
Loan Guaranty No: 664–HG–008 A01
1. *Attention:* Mr. Mongi Grine, Directeur, Direction du Paiement Exterieur, Banque Centrale de Tunisie, Tunis, Tunisia
Telex No.: BANCENT 15375, 13311
Telefax No.: 216–1–340–615
Telephone No.: 216–1–340–588, 254–000

Interested lenders should contact the Borrower as soon as possible and indicate their interest in providing financing for the Housing Guaranty Program. Interested lenders should submit their bids to the Borrower's representative by Tuesday, June 8, 1993, 12 noon Eastern Standard Time. Bids should be open for a period of 48 hours from the bid closing date. Copies of all bids should be simultaneously sent to the following:

Mr. Lane Smith or Mr. Fathi Kraiem, RHUDO/NENA—USAID/TUNISIA, c/o American Embassy, Tunis, Tunisia (Street address: 28 Rue Suffex, Notre Dame, Tunis, Tunisia)
Telex No.: 14182 USAID TN
Telefax No.: 216–1–782–464 (preferred communication)
Telephone No.: 216–1–784–300

Mr. David Grossman/Mr. Peter Pirnie Agency for International Development, Office of Housing and Urban Programs, PRE/H, Room 401, SA–2, Washington, D.C. 20523–0214
Telex No.: 892703 AID WSA
Telefax No.: 202/663–2552 (preferred communication)
Telephone No.: 202/663–2548/2530

For your information the Borrower is currently considering the following terms.

(1) *Amount:* U.S. $14.1 million.

(2) *Term:* 30 years.

(3) *Grace Period:* Ten years grace on repayment of principal (during grace period, semi-annual payments of interest only). If *variable* interest rate, repayment of principal to amortize in equal, semi-annual installments over the remaining 20-year life of the loan. If *fixed* interest rate, semi-annual level payments of principal and interest over the remaining 20-year life of the loan.

(4) *Interest Rate:* Alternatives of fixed and variable rates, and variable rates with interest "caps", are requested.

(a) *Fixed Interest Rate:* If rates are to be quoted based on a spread over an index, the lender should use as its index a long bond, specifically the 7⅛% U.S. Treasury Bond due February 15, 2023. Such rate is to be set at the time of acceptance.

(b) *Variable Interest Rate:* To be based on the six-month British Bankers Association LIBOR, preferably with terms relating to Borrower's right to convert to fixed. The rate should be adjusted weekly.

(c) *Variable Interest Rate with "Caps":* Offers should include a maximum (cap) rate ranging from 10% to 12% per annum, and are to be based on the six-month British Bankers Association LIBOR. The rate should be adjusted weekly.

(5) *Prepayment:*

(a) Offers should include options for prepayment and mention prepayment premiums, if any.

(b) Federal statutes governing the activities of A.I.D. require that the proceeds of A.I.D.-guaranteed loans be used to provide affordable shelter and related infrastructure and services to below median-income families. In the extraordinary event that the Borrower materially breaches its obligation to comply with this requirement, A.I.D. reserves the right, among its other rights and remedies, to accelerate the loan.

(6) *Fees:* Offers should specify the placement fees and other expenses, including A.I.D. fees, Paying and Transfer Agent fees, out of pocket expenses, etc. Lenders are requested to include all legal fees in their placement fee. Such fees and expenses shall be payable at closing from the proceeds of the loan.

(7) *Closing Date:* Estimated 60 days from date of selection of lender.

Selection of investment bankers and/or lenders and the terms of the loan are initially subject to the individual discretion of the Borrower and thereafter subject to approval by A.I.D. Disbursements under the loan will be subject to certain conditions required of the Borrower by A.I.D. as set forth in agreements between A.I.D. and the Borrower.

The full payment of the loans will be guaranteed by A.I.D. The A.I.D. guaranty

will be backed by the full faith and credit of the United States of America and will be issued pursuant to authority in Section 222 of the Foreign Assistance Act of 1961, as amended (the "Act").

Lenders eligible to receive an A.I.D. guaranty are those specified in Section 238(c) of the Act. They are: (a) U.S. citizens; (2) domestic U.S. corporations, partnerships, or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and, (4) foreign partnerships or associations wholly owned by U.S. citizens.

To be eligible for an A.I.D. guaranty, the loans must be repayable in full no later than the thirtieth anniversary of the disbursement of the principal amount thereof and the interest rates may be no higher than the maximum rate established from time to time by A.I.D.

Information as to the eligibility of investors and other aspects of the A.I.D. housing guaranty program can be obtained from:

Mr. Peter M. Kimm, Director, Office of Housing and Urban Programs, Agency for International Development, Room 401, SA–2, Washington, DC 20523–0214, Telephone: 202/663–2530.

Dated: May 19, 1993.

Michael G. Kitay,

Assistant General Counsel, Bureau for Private Enterprise, Agency for International Development.

[FR Doc. 93–12301 Filed 5–24–93; 8:45 am]

BILLING CODE 6116–01–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–32 (Sub-No. 49X)]

Boston and Maine Corp. and Springfield Terminal Railway Co.—Abandonment and Discontinuance of Service Exemptions—In Worcester County, MA

Boston and Maine Corporation (B&M), as owner, and Springfield Terminal Railway Company (ST), as lessee, have filed a notice of exemption under 49 CFR part 1152, subpart F—Exempt Abandonments and Discontinuances for B&M to abandon and ST to discontinue service over 0.72 miles of rail line between milepost 0.00 and milepost 0.72 in South Ashburnham, Worcester County, MA.

B&M and ST have certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line has been rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7; 49 CFR 1105.8; 49 CFR 1105.12 (newspaper publication); and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to use of this exemption, any employee adversely affected by the abandonment and discontinuance shall be protected under Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on June 24, 1993, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29[3] must be filed by June 4, 1993. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by June 14, 1993, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any pleading filed with the Commission should also be sent to applicants' representative: Kevin J. O'Connell, Boston and Maine Corporation, Springfield Terminal Railway Company, Iron Horse Park, No. Billerica, MA 01862.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio*.

B&M and ST have filed an environmental report which addresses environment and historic impacts, if any, from this abandonment and discontinuance. The Section of Energy and Environment (SEE) will issue an environmental assessment (EA) by May 28, 1993. Interested persons may obtain a copy of the EA by writing to SEE (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEE, at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA is available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: May 14, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–12319 Filed 5–24–93; 8:45 am]

BILLING CODE 7035–01–M

[1] A stay will be issued routinely by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Commission's Section of Energy and Environment in its independent investigation) cannot be made before the effective date of the notice of exemption. See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] See Exempt. of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C.2d 164 (1987).

[3] The Commission will accept a late-filed trail use request as long as it retains jurisdiction to do so.

[Docket Nos. AB–55 (Sub-No. 460X); AB–335X]

CSX Transportation, Inc., Abandonment Exemption, In Richland County, OH; Ashland Railway, Inc., Discontinuance Exemption, In Richland County, OH

CSX Transportation, Inc. (CSXT), as owner, and Ashland Railway, Inc. (ASRY), as lessee, have filed a notice of exemption under 49 CFR part 1152 subpart F—Exempt Abandonment and Discontinuances for CSXT to abandon and ASRY to discontinue its service over approximately 0.12 miles of rail line between Mileposts 60.95 and 61.07, at Mansfield, OH, in Richland County, OH.

CSXT and ASRY have certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period, and (4) that the requirements at 49 CFR 1105.7, 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment and discontinuance of service shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address

whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on June 24, 1993, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file on OFA under 49 CFR 1152.27(c)(2)[2] must be filed by June 4, 1993. Petitions for reconsideration or requests for public use conditions under 49 CFR 1152.28 must be filed by June 14, 1993, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any pleading filed with the Commission should be sent to applicant's representatives:

Charles M. Rosenberger, CSX Transportation, Inc., 500 Water Street J150, Jacksonville, FL 32202.

G. David Crane, Ashland Railway, Inc., 9 Market Place, Village of Logan Square, New Hope, PA 18938.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicants have filed an environmental report which addresses the effects of the abandonment and discontinuance of service, if any, on the environmental and historic resources. SEE will issue an environmental assessment (EA) by May 28, 1993. Interested persons may obtain a copy of the EA by writing to SEE (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEE, at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA is available to the public.

Environmental conditions will be imposed, where appropriate, in a subsequent decision.

Decided: May 20, 1993.

[1] A stay will be issued routinely by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Commission's Section of Energy and Environment (SEE) in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay on environmental grounds is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–12447 Filed 5–24–93; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–28,206]

American National Can Co., Chicago, IL; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at American National Can Company, Chicago, Illinois. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–28,206; American National Can Company, Chicago, Illinois (May 10, 1993)

Signed at Washington, DC, this 13th day of April, 1993.

Marvin M. Fooks,

Director, Office of Adjustment Assistance.

[FR Doc. 93–12344 Filed 5–24–93; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–28, 076]

Baroid Management Co., Houston, TX; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on December 7, 1992 in response to a worker petition which was filed on November 20, 1992 on behalf of workers at Baroid Management Company, operating out of Houston, Texas and the subject of investigation TA–W–28,076. Baroid Management Company functions as the corporate headquarters for Baroid Corporation.

On June 15, 1992, the Department of Labor amended the determination of investigation TA–W–26,589 assigned to Baroid Corporation. The amended determination, a certification, was issued to include the entire corporation, including the "corporate headquarters" located in Houston, Texas. This certification covers the workers of the subject investigation. Therefore, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 12th day of May 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93–12346 Filed 5–24–93; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–27, 118]

Bethlehem Steel Corp., Bar, Rod and Wire Division, Johnstown, PA; Revised Determination on Reconsideration

By order dated February 17, 1993 the U.S. Court of International Trade (USCIT) in *United Steelworkers of America, and its Local 2632, 2535 and 9157* v. *Secretary of Labor*, Court No. 92–09–00603, remanded this case to the Department after the Department requested a voluntary remand in order to obtain additional information to complete its investigation.

New findings on reconsideration show that a major proportion of the production at Johnstown in 1991 and 1992 was integrated with the production of finished bar at the Lackawanna, New York plant of Bethlehem Steel. A reduced demand for Johnstown's unfinished bar products was the direct result of the trade impacted conditions at Lackawanna. The Lackawanna workers were certified eligible for trade adjustment assistance on March 10, 1993 after the Department reopened that investigation, (TA–W–27,933).

Other findings on reconsideration show that Johnstown ceased all steelmaking operations and the production of bar products in September, 1992.

The remaining smaller but substantial share of the bar products sold from Johnstown were also adversely affected by Johnstown's customers shifting to foreign sources in 1991 and in the first quarter of 1992.

U.S. imports of cold finished steel bar and hot rolled steel bar increased relative to domestic shipments in 1991 compared to 1990 and increased absolutely and relatively in the first quarter of 1992 compared to the same quarter in 1991.

The wire mill at Johnstown was sold in December 1992 to Johnstown Wire Technology, Inc., in Johnstown, Pennsylvania. The wire mill had increased sales and production in 1992 compared to 1991.

Conclusion

After careful review of the additional facts obtained on reconsideration, it is

concluded that increased imports of articles like or directly competitive with bar products produced at Bethlehem Steel Corporation's Bar, Rod and Wire Division in Johnstown, Pennsylvania contributed importantly to the decline in sales or production and to the total or partial separation of workers at Bethlehem Steel Corporation's Bar Rod and Wire Division in Johnstown, Pennsylvania.

In accordance with the provisions of the Trade Act of 1974, I make the following revised determination:

"All workers of Bethlehem Steel Corporation, Bar, Rod and Wire Division, Johnstown, Pennsylvania engaged in steelmaking operations and the production of bar products who became totally or partially separated from employment on or after March 26, 1991 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974" and

"It is further determined that all workers of the wire mill of Bethlehem Steel Corporation, Bar, Rod and Wire Division, Johnstown, Pennsylvania are denied eligibility to apply for adjustment assistance under section 223 of the Trade Act of 1974."

Signed at Washington, DC, this 18th day of May 1993.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Service, Unemployment Insurance Service.

[FR Doc. 93–12350 Filed 5–24–93; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–28, 489]

B.T.F., E. Rutherford, NJ; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on March 29, 1993 in response to a union petition which was filed on behalf of workers at B.T.F., E. Rutherford, New Jersey.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, DC this 10th day of May, 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93–12349 Filed 5–24–93; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–28,106]

Dowty Aerospace Yakima, Yakima, WA; Affirmative Determination Regarding Application for Reconsideration

On April 12, 1993, the company requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for workers at the subject firm. The Department's Negative Determination was issued on March 2, 1993 and published in the **Federal Register** on March 22, 1993, (58 FR 15384).

The Department's denial was based on the fact that the decreased sales or production criterion of the Group Eligibility Requirements of the Trade Act. The company submitted new data showing that this requirement was met.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 14th day of May 1993.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Services, Unemployment Insurance Service.

[FR Doc. 93–12343 Filed 5–24–93; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–28,278]

Exxon Corp. Exxon Production Research Co., Houston, TX; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on April 29, 1993, applicable to all workers of the Exxon Production Research Company of Exxon Company, U.S.A. The notice will soon be published in the **Federal Register.**

At the request of the company, the Department reviewed the certification for workers of Exxon Production Research Company.

New Information received from the company shows that the Exxon Production Research Company is a wholly owned affiliate of the Exxon Corporation, not the Exxon Company, U.S.A.

The Department is amending the subject certification to show the correct name of the subject worker group.

The amended notice applicable to TA–W–28,278 is hereby issued as follows:

"All workers of the Exxon Production Research Company of the Exxon Corporation, Houston, Texas who became totally or partially separated from employment on or after January 8, 1992 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974."

Signed at Washington, DC, this 12th day of May 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93–12345 Filed 5–24–93; 8:45 am]

BILLING CODE 4510–30–M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period of May 1993.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–28,347; Hayes Wheels International, Romulus, MI

TA–W–28,424; PBP Fabrication, Inc., Odessa, TX

TA–W–28,158; Northrop Corp., Norwood, MA

TA-W-28,128; Mona Lisa Coat Co., Hoboken, NJ
TA-W-28,422; Union Metal Corp., Muskogee, OK
TA-W-28,367; Alphabet, Inc., FMA Div., Farmington, MO
TA-W-28,112; General Altronics Corp., Cathode Ray Tube Div., Philadelphia, PA
TA-W-28,358; M-1 Drilling Fluids, Westlake, LA
TA-W-28,331; XY Resources, Inc., Ardmore, OK
TA-W-28,425; Pennshire Stores, Plant #2, Portage, PA

In the following cases, the investigation revealed that the criteria for eligibility has not been met for the reasons specified.

TA-W-28,465; Tracey Warner School of Fashion, Philadelphia, PA

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-28,450; Ambro, Inc., Humble, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-28,439; Enron Liquid Fuel Co., Houston, TX

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-28,553; Nerco Coal Co., Portland, OR

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-28,349; United States Steel Group, Clairton Coke Works, Clairton, PA

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-28,359; Cooper Industries, Beldon Div., Jena, LA

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-28,519; CRM Services, Crane, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-28,461; General Electric Co., Arrester Operations, Pittsfield, MA

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-28,214; Wool Fashions, Hoboken, NJ

The investigation revealed that criterion (1) has not been met. A significant number or proportion of the workers did not become totally or partially separated as required for certification.

TA-W-28,442; Stanley Smith Security, Inc., Trojan Nuclear Plant, Rainier, OR

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-28,449; Alro Industrial Supply, Kalamazoo, MI

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-28,564; Sooner Pipe & Supply Corp., Tulsa, OK

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-28,423; Princeton Packaging, Inc., Bakery Packaging Products, Div., Bloomington, IN

Increased imports did not contribute importantly to worker separations at the firm.

Affirmative Determinations

TA-W-28,336, Nancy Fashions of Noxen, Inc., Tunkhannock, PA

A certification was issued covering all workers separated on or after February 1, 1992.

TA-W-28,219; Palermo Fashions, Inc., Hoboken, NJ

A certification was issued covering all workers separated on or after January 5, 1992.

TA-W-28,574; Camco Products & Services, Anchorage, AK

A certification was issued covering all workers engaged in exploration & drilling activity on or after April 8, 1992.

TA-W-28,417; Monsanto Chemical Co., Everett, MA

A certification was issued covering all workers engaged in employment related to the production of organo phosphates or plasticizers separated on or after February 25, 1992. It was further determined that all workers engaged in employment related to the production of scripsets are denied eligibility to apply for adjustment assistance.

TA-W-28,448; Atron, Inc.,—High Q. Lakeview, MI

A certification was issued covering all workers separated on or after March 1, 1992.

TA-W-28,348; G.L.G. Energy L.P., Sidney, MT

A certification was issued covering all workers separated on or after December 29, 1991.

TA-W-28,429; Gateway Safety Systems, Michigan City, IN

A certification was issued covering all workers separated on or after May 22, 1992.

TA-W-28,530; LeDamor, Feasterville, PA

A certification was issued covering all workers engaged in the production of ladies' sportswear separated on or after March 24, 1992.

TA-W-28,306; Ingersoll Dresser Pump Co., Harrison, NJ

A certification was issued covering all workers separated on or after January 26, 1992.

TA-W-28,441; American Welding & Mfg Co., Warren, OH

A certification was issued covering all workers separated on or after March 5, 1992.

TA-W-28,520; Granada Industries Corp., Martinsburg, WV

A certification was issued covering all workers separated on or after March 25, 1992.

TA-W-28,535; Thomson Co., Gibson, GA

A certification was issued covering all workers separated on or after March 29, 1992.

TA-W-28,443; Smith Energy Services, El Reno, OK

A certification was issued covering all workers engaged in the production of exploration and drilling of crude oil and natural gas separated on or after March 2, 1992.

TA-W-28,317 & TA-W-28,317A; Brazier Forest Industries, Inc., Molalla, OR and Seattle, WA

A certification was issued covering all workers engaged in employment related to the production of softwood dimensional lumber separated on or after February 2, 1992.

I hereby certify that the aforementioned determinations were issued during the month of May 1993. Copies of these determinations are available for inspection in room C-4318, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons to write to the above addresses.

Dated: May 18, 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93–12351 Filed 5–24–93; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–28,181, TA–W–28,181A, and TA–W–28,181B]

The Hill Acme Co. and Loma Machine, Gorham, ME, New Rochelle, NY and Middleburg Heights, OH; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on March 25, 1993, applicable to all workers of the subject firm. The notice was published in the **Federal Register** on April 6, 1993 (58 FR 17910).

New information from the company shows that workers were separated for lack of work in New Rochelle, New York and Middleburg Heights, Ohio. Accordingly, the Department is amending the certification to include worker separations in New Rochelle, New York and Middleburg Heights, Ohio.

The amended notice applicable to TA–W–28,181 is hereby issued as follows:

"All workers of Hill-Loma, Incorporated d/b/a The Hill Acme Company and Loma Machine, Gorham, Maine, New Rochelle, New York and Middleburg Heights, Ohio who became totally or partially separated from employment on or after October 27, 1991 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974."

Signed in Washington, DC, this 11th day of May 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93–12348 Filed 5–24–93; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–28,258; TA–W–28,258A]

Texaco, Inc., Exploration and Production Technology Department, Houston, and Bellaire, TX; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on April 19, 1993, applicable to all workers of the Exploration and Production Technology Department of Texaco, Inc., Houston, Texas. The certification notice was published in the **Federal Register** on May 4, 1993 (58 FR 26560).

At the request of the State Agency, the Department reviewed the certification for workers of the Exploration and Production Technology Department of Texaco, Inc. New information received from the company shows that the Exploration and Production Technology Department of Texaco, Inc., has two locations, one in Houston and one in Bellaire, Texas.

The Department is amending the subject certification to include the Bellaire, Texas location.

The amended notice applicable to TA–W–28,258 is hereby issued as follows:

"All workers of the Exploration and Production Technology Department of Texaco, Inc., Houston, Texas and Bellaire, Texas who became totally or partially separated from employment on or after January 12, 1992 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974."

Signed at Washington, DC, this 12th day of May 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93–12347 Filed 5–24–93; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 4, 1993.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 4, 1993.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 10th day of May, 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
WCI Steel (USWA)	Warren, OH	05/10/93	04/26/93	28,632	Carbon Steel Coil.
Walbar, Inc. (Co.)	Peabody, MA	05/10/93	04/26/93	28,633	Jet Engine Turbine Components.
Tokin Magnetics, Inc. (Co.)	Fremont, CA	05/10/93	04/26/93	28,634	Electronic Transformers.
Tennaco Gas Pipeline Co. (workers)	Houston, TX	05/10/93	04/28/93	28,635	Graphic Arts Services.
OTS International, Inc. (Co.)	Shawnee, OK	05/10/93	04/29/93	28,636	Welihead Equipment.
Nasco Sportswear (workers)	Gallitzin, PA	05/10/93	04/28/93	28,637	Embroidered Sweatwear.
Ellisville Manufacturing Co. (workers)	Ellisville, MS	05/10/93	04/23/93	28,638	Children's & Adults' Clothing.
Homestake Mining Co. (workers)	Golden, CO	05/10/93	04/26/93	28,639	Engineers, Inspectors, Geologist.
Fed Sportswear (ILGWU)	Federalsburg, MD	05/10/93	04/25/93	28,640	Ladies Sportswear.
Dynamic Closures (workers)	Massena, NY	05/10/93	04/28/93	28,641	Security Gates and Doors.

APPENDIX—Continued

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Duchess Footwear Corp. (workers)	South Berwick, ME	05/10/93	04/26/93	28,642	Ladies Shoes.
Donaldson Mining Co. (workers)	Cedar Grove, WV	05/10/93	05/10/93	28,643	Coal.
Chevron USA Prod. Co., Phil. Refinery (workers).	Philadelphia, PA	05/10/93	04/18/93	28,644	Home Heating Oil, Diesel Fuel, Jet Fuel.
Chevron Services Co. (Co.)	San Francisco, CA	05/10/93	04/20/93	28,645	Support For Oil and Gas.
Chevron Services Co., Products (Co.)	Concord, CA	05/10/93	04/20/93	28,646	Support For Oil and Gas.
Chevron Services Co./Purchasing (Co.)	San Ramon, CA	05/10/93	04/20/93	28,647	Support For Oil and Gas.
Chevron Services Co./Staff (Co.)	Port Arthur, TX	05/10/93	04/20/93	28,648	Support For Oil and Gas.
Chevron Services Co./Finance (Co.)	Houston, TX	05/10/93	04/20/93	28,649	Support For Oil and Gas.
Chevron Corp. Headquarters (Co.)	San Francisco, CA	05/10/93	04/20/93	28,650	Support For Oil and Gas.
Ciba (Co.)	Toms River, NJ	05/10/93	03/20/93	28,651	Dye Blends.
Astronautics Corp. of America (workers)	Hurley, WI	05/10/93	04/05/93	28,652	Circuit Boards.
Tupperware Manufacturing (workers)	Falls, TN	05/10/93	04/10/93	28,653	Plastic Housewares.
Armstrong World Industries, Inc. (workers).	Braintree, MA	05/10/93	04/28/93	28,654	Textile Machinery.
North American Energy Services (workers).	Rainier, OR	05/10/93	04/28/93	28,655	Maintenance of Nuclear Power Plant.
International Resistive Corp. (IUE)	Corpus Christi, TX	05/10/93	05/03/93	28,656	Resistors.

[FR Doc. 93–12342 Filed 5–24–93; 8:45 am]
BILLING CODE 4510–30–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 93–047]

Intent To Grant a Partially Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant a patent license.

SUMMARY: NASA hereby gives notice of intent to grant Advanced High Temperature Strain Sensors of San Diego, California, a partially exclusive, royalty-bearing, revocable license to practice the invention described and claimed in U.S. Patent Application Serial No. 07/928,865, entitled "Compensated High Temperature Strain Gage," filed on August 12, 1992. The proposed patent license will be for a limited number of years and will contain appropriate terms, limitations and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR part 1245 subpart 2. NASA will negotiate the final terms and conditions and grant the partially exclusive license, unless within 60 days of the Date of this Notice, the Director of Patent Licensing receives written objections to the grant, together with any supporting documentation. 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 partially exclusive license.

DATES: Comments to this notice must be received by July 26, 1993.

ADDRESSES: National Aeronautics and Space Administration, Code GP, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Harry Lupuloff, (202) 358–2041.

Dated: May 14, 1993.

Edward A. Frankle,

General Counsel.

[FR Doc. 93–12253 Filed 5–24–93; 8:45 am]
BILLING CODE 7510–01–M

[Notice 93–048]

Intent To Grant a Partially Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant a patent license.

SUMMARY: NASA hereby gives notice of intent to grant JP Technologies, Inc., of Upland, California, a partially exclusive, royalty-bearing, revocable license to practice the invention described and claimed in U.S. Patent Application Serial No. 07/928,865, entitled "Compensated High Temperature Strain Gage," filed on August 12, 1992. The proposed patent license will be for a limited number of years and will contain appropriate terms, limitations and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR part 1245 subpart 2. NASA will negotiate the final terms and conditions and grant the partially exclusive license, unless within 60 days of the date of this notice, the Director of Patent Licensing receives written objections to the grant, together with any supporting documentation. 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 partially exclusive license.

DATES: Comments to this notice must be received by July 26, 1993.

ADDRESSES: National Aeronautics and Space Administration, Code GP, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Harry Lupuloff, (202) 358–2041.

Dated: May 14, 1993.

Edward A. Frankle,

General Counsel.

[FR Doc. 93–12252 Filed 5–24–93; 8:45 am]
BILLING CODE 7510–01–M

[Notice No. 93–046]

Intent To Grant an Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant a patent license.

SUMMARY: NASA hereby gives notice of intent to grant Synthecon, Inc., of Friendswood, Texas, an exclusive royalty-bearing, revocable license to practice the inventions assigned to NASA an described in U.S. Patent No. 5,153,131, entitled "High Aspect Reactor Vessel and Method of Use"; U.S. Patent No. 5,155,034, entitled "Three Dimensional Cell to Tissue Assembly Process"; and U.S. Patent No. 5,155,035, entitled "Method of Culturing Mammalian Cells in a Perfused Bioreactor." The proposed patent license will be for a limited number of years and will contain

appropriate terms, limitations and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR part 1245 subpart 2. NASA will negotiate the final terms and conditions and grant the exclusive license, unless within 60 days of the Date of this Notice, the Director of Patent Licensing receives written objections to the grant, together with any supporting documentation. 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 exclusive license.

DATES: Comments to this notice must be received by July 26, 1993.

ADDRESSES: National Aeronautics and Space Administration, Code GP, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Harry Lupuloff, (202) 358–2041.

Dated: May 13, 1993.

Edward A. Frankle,

General Counsel.

[FR Doc. 93–12254 Filed 5–24–93; 8:45 am]

BILLING CODE 7510–01–M

[Notice 93–049]

Intent To Grant a Partially Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant a patent license.

SUMMARY: NASA hereby gives notice of intent to grant Vector Research, Inc., of Milan, Ohio a partially exclusive, royalty-bearing, revocable license to practice the invention described and claimed in U.S. Patent No. 5,053,341, entitled "Tissue Simulating Gel for Medical Research," which issued on October 1, 1991, to NASA. The proposed patent license will be for a limited number of years and will contain appropriate terms, limitations, and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR part 1245 subpart 2. NASA will negotiate the final terms and conditions and grant the partially exclusive license, unless within 60 days of the date of this notice, the director of Patent Licensing receives written objections to the grant, together with any supporting documentation. 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 partially exclusive license.

DATES: Comments to this notice must be received by July 26, 1993.

ADDRESSES: National Aeronautics and Space Administration, Code GP, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Harry Lupuloff, (202) 358–2041.

Dated: May 13, 1993.

Edward A. Frankle,

General Counsel.

[FR Doc. 93–12251 Filed 5–24–93; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL CREDIT UNION ADMINISTRATION

Public Information Collection Requirement Submitted to OMB for Review

Dated: May 13, 1993.

The National Credit Union Administration has submitted the following public information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submissions may be obtained by calling the NCUA Clearance Officer listed. Comments regarding information collections should be addressed to the OMB reviewer listed and to the NCUA Clearance Officer, NCUA, Administrative Office, room 7344, 1776 G Street, Washington, DC 20456.

National Credit Union Administration

OMB Number: 3133–0068.

Form Number: None

Type of Review: Reinstatement of a previously approved collection for which approval has expired.

Title: Nondiscrimination Requirements.

Description: This regulation requires an FCU to keep a copy of the property appraisal. It also requires that an FCU using geographic factors in evaluating real estate loan applications must disclose such fact on the appraisal and state its justification. This regulation insures compliance with the Fair Housing anti-redlining requirements.

Respondents: Federal credit unions.

Estimated Number of Respondents: 3,680.

Estimated Burden Hours per Response: .2 hours.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 736 hours.

OMB Number: 3133–0108.

Form Number: None.

Type of Review: Reinstatement of a previously approved collection for which approval has expired.

Title: Monitoring Bank Secrecy Act Compliance.

Description: Needed to allow NCUA to determine whether credit unions have established a program reasonably designed to assure and monitor their compliance with current recordkeeping and reporting requirements established by federal statute and Department of Treasury Regulation.

Respondents: Federally insured credit unions.

Estimated Number of Respondents: 12,670.

Estimated Burden Hours per Response: 3.07 hours.

Frequency of Response: Recordkeeping.

Estimated Total Reporting Burden: 38,938 hours.

OMB Number: 3133–0121.

Form Number: None.

Type of Review: Reinstatement of a previously approved collection for which approval has expired.

Title: Notice of Change of Officials and Senior Executive Staff.

Description: This statutory provision requires that credit unions that are newly chartered or in troubled condition notify the NCUA Board before making any changes to their board of directors or senior management.

Respondents: Federally insured credit unions.

Estimated Number of Respondents: 785.

Estimated Burden Hours per Response: 2 hours.

Frequency of Response: On Occasion.

Estimated Total Reporting Burden: 1,570 hours.

Clearance Officer: Wilmer A. Theard or Patricia Slye, (202) 682–9700, National Credit Union Administration, room 7344, 1776 G Street, NW., Washington, DC 20456.

OMB Reviewer: Gary Waxman (202) 395–7340, Office of Management and Budget, room 3208, New Executive Office Building, Washington, DC 20503.

Becky Baker,

Secretary of the NCUA Board.

[FR Doc. 93–12267 Filed 5–24–93; 8:45 am]

BILLING CODE 7535–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

International Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the International Advisory Panel (International Projects Initiative Section) to the National

Council on the Arts will be held on June 14–16, 1993 from 9 a.m.–6 p.m. and June 17 from 9 a.m.–5 p.m. in room 716 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

Portions of this meeting will be open to the public on June 14 from 9 a.m.–10 a.m. and June 17 from 1 p.m.–5 p.m. for opening remarks, policy discussion and guidelines review.

The remaining portions of this meeting on June 14 from 10 a.m.–6 p.m., June 15–16 from 9 a.m.–6 p.m., and June 17 from 9 a.m.–1 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 24, 1992, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5439.

Dated: May 20, 1993.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 93–12363 Filed 5–24–93; 8:45 am]

BILLING CODE 7537–01–M

Music Advisory Panel Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Overview/Special Projects Section) to the National Council on the Arts will be held on June 14, 1993 from 10 a.m.–5 p.m., June 15 from 9:30 a.m.–5:30 p.m. and June 16 from 9:30 a.m.–2:30 p.m. in room M–07 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

Portions of this meeting will be open to the public on June 14 from 10 a.m.–5 p.m. and June 16 from 1:30 p.m.–2:30 p.m. The topics will be program overview, policy discussion and guidelines review.

The remaining portions of this meeting on June 15 from 9:30 a.m.–5:30 p.m. and June 16 from 9:30 a.m.–1:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 24, 1992, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5439.

Dated: May 20, 1993.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 93–12373 Filed 5–24–93; 8:45 am]

BILLING CODE 7537–01–M

POSTAL RATE COMMISSION

Commission Visit

May 20, 1993.

Notice is hereby given that the Chairman, Commissioners, and certain advisory staff personnel will visit DHL Worldwide Express airport courier facility in Irving, Texas, on June 1, 1993, American Airlines mail and freight operations at the Dallas/Fort Worth Airport, Texas, on June 2, 1993, and LEE DataMail Services in Dallas, Texas, on June 3, 1993.

A report of the visits will be on file in the Commission's Docket Room. For further information contact Charles L. Clapp, Secretary of the Commission at 202–789–6840.

Charles L. Clapp,

Secretary.

[FR Doc. 93–12357 Filed 5–24–93; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–32332; File No. SR–BSE–93–11]

Self-Regulatory Organizations; Filing and Order Granting Temporary Accelerated Approval of Proposed Rule Change by Boston Stock Exchange, Inc. Relating to Examination Specifications for its Floor Member Examination

May 19, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 6, 1993, the Boston Stock Exchange, Inc. ("BSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I and II 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 Exchange has filed the Examination Specifications for its Floor Member Examination.

The Exchange is requesting temporary accelerated effectiveness of the proposed rule change. The Exchange believes that such accelerated effectiveness is necessary and appropriate in view of the administrative nature of the exam and its importance in determining the level of training, competence and experience of members employed on the trading floor.

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1991).

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 III 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

1. Purpose

The Floor Member Examination was created as an Exchange regulatory initiative designed to codify, clarify and give specificity to compliance obligations of Exchange members and member organizations. The BSE's Floor Member Examination is a qualifications examination intended to ensure that the individual floor members have the knowledge, skills and abilities necessary to carry out their job responsibilities. The Examination Specifications detail the areas covered by the exam and break down the proportion of examination questions culled from each area.

Independent floor brokers and specialists who are employed by member firms on the trading floor must take and pass the examination before the commencement of employment on the trading floor in order to be in compliance with the requirements of the Constitution and Rules of the Board of Governors.[3] Floor clerks, with the consent of the Exchange, however have three months from commencement of employment to pass the exam.[4]

The Exchange is requesting temporary accelerated approval for a ninety day period in order to continue administering the proposed exam in place of the old exam which has become obsolete, as well as, to provide the Commission with the necessary time to review the adequacy of the proposed exam.[5] At this time, it is anticipated that the exam will be administered on or about June 1, 1993 to a new member.

2. Statutory Basis

The statutory basis for the Floor Member Examination lies in section 6(c)(3)(B) of the Act in that it is the responsibility of the Exchange to prescribe standards of training, experience and competence for persons associated with Exchange members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the Floor Member Examination will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has neither solicited nor received written comments on the Floor Member Examination.

III. 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 at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the BSE. All submissions should refer to File No. SR–BSE–93–11 and should be submitted by June 15, 1993.

IV. Commission's Findings and Order Granting Temporary Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of sections 6 and 15 of the Act.[6] In particular, the Commission believes that the proposal is consistent with the section 6(b)(5)[7] requirement that the rules of an exchange be designed to promote just and equitable principles of trade and to protect investors and the public interest. The Commission believes preliminarily that the revised Floor Member Examination should help to ensure that only those individuals with a comprehensive knowledge of the specific rules of the Exchange, as well as an understanding of the relevant provisions of the Act, will be eligible to act in a variety of capacities on the BSE floor, such as floor broker, floor clerk or specialist.

The Commission also believes that the proposal is consistent with sections 6(c)(3)(A) and (B)[8] of the Act, which set forth the basis upon which a national securities exchange may deny membership to, or condition the membership of, a registered broker or dealer, or may bar a natural person from becoming a member or associated with a member, or condition the membership of a natural person or association of a natural person with a member of an exchange. The Commission believes preliminarily that the BSE has tailored its exam toward evaluating a floor member's knowledge of specific Exchange rules and policies. The revised exam should ensure that the Exchange grants members access to its floor based on a demonstration of training, experience and competence as prescribed by the rules of the Exchange.

In addition, the Commission believes that the proposed rule change is consistent with section 15(b)(7)[9] which requires that prior to effecting any transaction in, or inducing the purchase or sale of, any security, a registered broker or dealer must meet certain standards of operational capability, and that such broker or dealer (and all natural persons associated with such broker or dealer) must meet certain standards of training, experience,

[3] The BSE requires that independent floor brokers, specialists and floor clerks pass the Exchange's Floor Member Examination. Independent floor brokers and specialists must first pass the Floor Broker Examination before acting in their respective capacity. See BSE Constitution Art. IX, section 3(d) and Rules of Board of Governors, Chapter XIV, § 2152(b)(2), Independent Floor Brokers; Chapter XV, § 2155.01 Dealer-Specialists.

[4] The BSE's rules permit a floor clerk to perform limited clerical duties, with the consent of the Exchange, for three months without having passed the Floor Member Examination. See Chapter XIV, § 2153 (iii).02, Floor Clerks.

[5] The Commission previously granted temporary accelerated approval of the BSE Floor Broker Examination for a ninety day period which expired on April 15, 1993. *See* Securities Exchange Act Release No. 31736 (January 15, 1993), 58 FR 6026 (January 25, 1993) (File No. SR–BSE–93–01). The Commission is reviewing the BSE's proposed rule change for permanent approval of its Floor Broker Examination. See Securities Exchange Act Release No. 32052 (March 26, 1993), 58 FR 17462 (April 2, 1993) (File No. SR–BSE–92–10).

[6] 15 U.S.C. 78f and 78o (1989).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78f(c)(3)(A), (B) (1989).

[9] 15 U.S.C. 78o(b)(7) (1989).

competence and such other qualifications as the Commission finds necessary or appropriate in the public interest or for the protection of investors. The Commission believes preliminarily that the BSE exam should satisfy the requirements of section 15(b)(7) by requiring that floor members demonstrate requisite knowledge, training and competence to satisfactorily discharge their individual duties on the BSE floor.

For these reasons, the Commission believes that it is reasonable to grant temporary approval of the BSE's revised Floor Member Examination for another ninety day period. Temporary approval will enable the BSE to continue administering its revised exam while allowing the Commission more time to fully review the exam questions.

As noted above, the BSE has represented that the revised exam would replace an exam whose questions have become obsolete, and that the Exchange will need to administer its Floor Member Examination on or about June 1, 1993 to a new member. The Commission recognizes that, under these circumstances, temporary approval of the proposed rule change should prevent BSE floor members from taking an exam which has become outdated due to market developments on the BSE floor. During the ninety day temporary approval period, however, the Commission will continue its review of the exam to determine whether the proposed rule change warrants permanent approval. In this regard, the Commission will continue reviewing the proposal to determine if the BSE's revised exam sufficiently reflects the requisite minimum knowledge a floor member must possess to comply with the BSE's rules as well as with the pertinent rules and regulations of the Act.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission believes that temporary accelerated approval of the proposed rule change should benefit investors and the public interest because it will allow the Exchange to administer the revised Floor Broker Examination on or about June 1, 1993 to ensure that BSE floor members have the knowledge, skills and abilities necessary to carry out their job responsibilities. In addition, the substance of the proposed rule change was published in the **Federal Register** for the full statutory period and the Commission received no comments on the proposal.[10]

It is therefore ordered, pursuant to section 19(b)(2)[11] that the proposed rule change (SR–BSE–93–11) is hereby approved for a ninety day period expiring on August 17, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–12310 Filed 5–24–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–32320; File No. SR–Amex–92–31]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to Automatic Cancellation of Orders in Expiring Rights and Warrants

May 17, 1993.

On August 28, 1992, the American Stock Exchange, Inc. ("Amex" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Amex Rule 179 to provide for automatic cancellation of "regular way" and "next day" orders in expiring rights and warrants prior to commencing "next day" and "cash" trading, respectively, in such issues.

The proposed rule change was published for comment in Securities Exchange Act Release No. 31587 (December 11, 1992), 57 FR 60252 (December 18, 1992). No comments were received on the proposal.

Amex Rule 179 requires that, for certain numbers of days before expiration, orders in rights and warrants be for "next day" or "cash" settlement. Specifically, orders in expiring warrants must be for "cash" settlement during the last five business days before expiration, and for "next day" delivery during the three business days preceding that five day period. Orders in expiring rights must be for "cash" settlement on the last trading day before expiration, and for "next day" delivery during the five business days preceding that last trading day.

Currently, open orders in expiring rights and warrants remain in the Exchange's automated Post Execution Reporting ("PER") system and on the specialist's book, unless they are cancelled by the member or member organization which placed them. On the day specified by Rule 179, any open "regular way" orders, still in PER and on the book, are automatically converted into "next day" orders. Likewise, open "next day" orders become "cash" orders.

The Exchange proposes to amend Rule 179 to provide, in accordance with the above time frames, for the automatic cancellation of open "regular way" and "next day" orders in expiring rights and warrants, entered in PER and on the specialist's book, prior to commencing "next day" and "cash" trading in those securities. Members and member organizations would be informed in advance, via ticker notices and the Amex's Weekly Bulletin,[3] and could place a "new" order in the appropriate way. The substituted order would be treated as a new order and would not retain the priority on the specialist's book of the "regular way" order.

The Amex states that the proposed procedures are particularly important in light of the utilization of the Amex Order File ("AOF") by an increasing number of member organizations. According to the Amex, GTC/GTX (good 'til cancelled) or open orders in rights or warrants entered into PER/AOF as "regular way" orders but not cancelled prior to the automatic "non-regular way" trading (*e.g.*, "next day" or "cash") may result in errors in clearance and settlement. "Regular way" GTC/GTX orders entered by member organizations are recorded on the AOF with the Amex omnibus give-up "APEX" to facilitate clearance through National Securities Clearing Corporation ("NSCC") facilities. Currently, the

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[10] See Securities Exchange Act Release No. 32502, *supra* note 5.

[11] 15 U.S.C. 78s(b)(2) (1988).

[12] 17 CFR 200.30–3(a)(12) (1991).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1991).

[3] The Amex has committed to distribute an Information Circular advising members and member organizations that the Commission has approved this proposal and describing how notification of impending cancellations will be provided. *See* letter from Claudia Crowley, Special Counsel, Legal & Regulatory Policy Division, Amex, to Beth Stekler, Attorney, Division of Market Regulation, SEC, dated March 26, 1993.

According to the Amex, its Information Circular will alert members and member organizations to monitor the ticker-tape and Weekly Bulletins for notification of cancellations. Ticker notices will appear on a weekly basis beginning two to four weeks before the start of "non-regular way" trading. The notice will then run on the last day of "regular way" trading and on every day of "next day" or "cash" trading. All ticker notices will be published verbatim in the Amex's Weekly Bulletin. Telephone conversation between Claudia Crowley, Special Counsel, Legal & Regulatory Policy Division, Amex, and Beth Stekler, Attorney, Division of Market Regulation, SEC, on March 26, 1993.

omnibus give-up "APEX" remains on the order on file and on the paper order on the specialist's book until it is executed, cancelled, or manually deleted. "Cash" or "next day" trades require a member organization's specific give-up symbol, instead of "APEX", to facilitate clearance of such "non-regular way" trades through NSCC facilities. The Amex states that modifications to AOF to permit automatic purging from the system of open orders in expiring rights and warrants and their re-entry by member organizations with the organization's specific give-up, if applicable, will facilitate accurate clearance and settlement of "cash" and "next day" trades without special action being taken by the specialist.

The Amex states that the proposed rule change is consistent with section 6(b) of the Act in general and furthers the objectives of section 6(b)(5) in particular in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the pubic interest.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, with the requirements of section 6(b).[4] In particular, the Commission believes the proposal is consistent with the section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Commission believes that Rule 179, as amended, will facilitate the timely clearance of trades in expiring rights and warrants. For the reasons discussed below, the proposed rule change will create a more efficient market for such securities, particularly as increasing numbers of Amex member organizations file their GTC/GTX orders in the electronic AOF. As the Exchange previously noted, orders entered into PER/AOF (and then printed on paper tickets and placed in the specialist's book) are routinely assigned the Amex's omnibus give-up, "APEX";[5] this symbol locks in clearance in the "regular way." To get "next day" or "cash" settlement, however, orders must have the member organization's own specific give-up symbol.

The Commission agrees with the Amex that current Rule 179 may result in errors in the clearance and settlement of expiring rights and warrants. Once "non-regular way" trading in such securities begins, open orders remain in PER/AOF and on the specialist's book with the improper "APEX" give-up. The specialist must change this symbol manually. If he or she fails to do so, executed trades would go through the normal clearance cycle and would not settle in a timely fashion.

In contrast, under the Amex proposal, open orders in rights and warrants will, as a matter of course, have the give-up symbol needed to complete transactions before the issue expires. Orders without this give-up will be purged from the system (in accordance with Rule 179's time frames) before they can be executed. As a result, the specialist will no longer bear the burden of manually correcting errors. The member or member organization which placed the initial order will instead be responsible for substituting a "new" one, with appropriate delivery terms. In the end, these changes should make the market for rights and warrants function more smoothly.

As noted above, substituted orders are treated as new orders and thus will not retain the priority of the cancelled "regular way" order when re-entered on the specialist's book. Although the Commission initially was concerned about this loss of priority, the Commission believes that the Amex's revised procedures are fair to market participants. Different delivery terms ("next day" rather than "regular way"; "cash" rather than "next day") create a substantially different order. The member or member organization which placed the original order did not agree to these new terms and, in fact, may not be able to satisfy them. The Commission recognizes that, under these circumstances, it may be more equitable to cancel the order altogether than to hold an investor to a commitment he or she did not make. If "next day" or "cash" settlement is acceptable, the member or member organization can re-enter the order in the appropriate way; otherwise, unlike under the current language of Rule 179, the original order will not be executed.

Finally, the Commission believes that the Exchange will provide adequate notice to members and member organizations of the automatic cancellation of open "regular way" and "next day" orders in expiring rights and warrants. As the expiration date of a given issue approaches, the Amex has committed to put messages on the ticker-tape and in its Weekly Bulletin.[6] Notices will appear weekly during "regular way" trading and on a daily basis once "non-regular way" trading begins.[7] Taken together, these should be sufficient to alert members and member organizations that their orders in those rights or warrants will be cancelled, and to provide them with a reasonable opportunity to respond.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[8] that the proposed rule change (SR–Amex–92–31) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–12283 Filed 5–24–93; 8:45 am]

BILLING CODE 8010–01–M

[4] ????

[5] The Exchange is identified as the contra party to the transaction.

[6] See, *supra,* note 3.

[7] *Id.*

[8] 15 U.S.C. 78s(b)(2) (1988).

[9] 17 CFR 200.30–3(a)(12) (1991).

[Release No. 34–32333; File No. SR–BSE–93–7]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the Boston Stock Exchange, Inc. Relating to its Net Capital and Equity Requirements

May 19, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 19, 1993, the Boston Stock Exchange, Inc. ("BSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. On March 30, 1993, the BSE submitted to the Commission Amendment No. 1 to the proposed rule change.[1] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] See letter from Karen A. Aluise, Staff Attorney, BSE, to Diana Luka-Hopson, Branch Chief, Commission, dated March 25, 1993. Amendment No. 1 corrected certain technical errors in the rule filing.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The BSE proposes to amend its Net Capital [2] and Equity requirements and to add Trading in an Inactive Account, as proposed, to the Exchange's Minor Rule Violation Plan's List of Exchange Rule and Policy Violations and Fines Applicable Thereto ("List").[3]

II. Self-Regulatory Organization's Statement of the Propose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements governing 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

(1) Purpose

The purpose of the proposed rule change is to revise the capital and equity requirements of the Exchange in anticipation of the proposed amendment of Rule 15c3–1.[4] The proposed changes include an increase in the minimum net capital requirement from $35,000 to $100,000 [5] and in the minimum equity requirement from $125,000 to $200,000 [6] in two phases ($160,000 by July 1, 1993 and $200,000 by January 1, 1994); an increase in the additional equity requirement for alternate and/or trading accounts from $25,000 to $50,000 per specialist;[7] deleting language detailing the specific requirements set forth in SEC Rule 15c3–1; limiting to sixty business days the period during which a specialist may operate under Early Warning Alert Status; [8] requiring that equity funds be maintained with the Clearing Corporation; and establishing inactive status for alternate and trading accounts.[9]

In addition, the Exchange is proposing to add Trading in an Inactive Alternate and/or Trading Account (Section 2(m)) to the Minor Rule Violation Plan.[10] It is anticipated that this will enable the Exchange to enforce its equity requirements in a more efficient and effective manner. The Exchange's Minor Rule Violation Plan ("Plan") provides that the Exchange may impose a fine, not to exceed $2,500, on any member, member organization, allied member, approved person, or registered or non-registered employee of a member or member organization for a minor violation of certain specified Exchange rules.

The purpose of the plan is to provide for a response to a rule violation when a sanction is appropriate but when initiation of a full disciplinary proceeding is not suitable because such proceeding would be more costly and onerous than would be warranted given the minor nature of the violation. The Plan provides for an appropriate response to minor violations of certain Exchange rules while preserving the due process rights of the party accused through specified, required procedures.

In the Exchange's initial filing which set forth the provisions and procedures of the Plan, the Exchange indicated that it periodically would amend the list of rules subject to the Plan as the Exchange deemed appropriate. The Exchange now seeks to add the following policy to the List: Trading in an Inactive Alternate and/or Trading Account.[1]

(2) Statutory Basis

The statutory basis for the proposed rule change is section 6(b)(5) of the Act, in that the capital and equity requirements of the Exchange are designed to protect investors and the public interest by ensuring that Exchange members doing business on the Floor have adequate funds to cover losses that they might incur in the everyday transaction of business. The addition of section 2(m) of the rule to the Plan will advance the objectives of section 6(b)(6) of the Act in that its members and persons associated with its members will be appropriately disciplined for violation of rules and policies where the Exchange has determined that such violation is minor in nature. In accordance with sections 6(b)(7) and 6(d)(1), the Plan provides for a fair disciplinary procedure for the imposition of sanctions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes

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[2] The term "net capital", as used in the BSE proposal, means net capital as defined by Commission Rule 15c3–1. Rule 15c3–1 defines net capital as the net worth of a broker or dealer, adjusted by certain adjustments prescribed in Rule 15c3–1. See 17 CFR 240.15c3–1(c)(2) (1992).

[3] The BSE also has requested approval, under Rule 19d–1(c)(2), 17 CFR 240.19d–1(c)(2), to amend its Rule 19d–1 minor rule violation enforcement and reporting plan to include Trading in an Inactive Alternate and/or Trading Account. *See* letter from Karen A. Aluise, Staff Attorney, BSE, to Diana Luka-Hopson, Branch Chief, Commission, dated March 18, 1993.

[4] 17 CFR 240.15c3–1 (1992). In 1988, the Commission proposed amendments to Rule 15c3–1. The proposed amendments were published for comment in Securities Exchange Act Release No. 26402 (December 28, 1988), 54 FR 315 (January 5, 1989). As of May 17, 1993, the proposed amendments to Rule 15c3–1 have not been adopted by the Commission.

[5] The BSE proposes to increase the minimum net capital requirement for specialists who do not carry customer accounts.

[6] The Exchange minimum equity requirements apply to all specialists conducting business on the Exchange floor. The term "equity", as used in the BSE proposal, means the excess of cash, readily marketable securities and amount due from registered clearing organizations over all liabilities.

[7] Exchange additional equity requirements for alternate and/or trading accounts apply to all specialists that wish to maintain an alternate and/or trading account.

[8] Pursuant to the BSE proposal, if a specialist's equity drops below a certain amount, such specialist will be given an Early Warning Alert notice alerting the specialist of their equity position and proximity to the maintenance requirement with a statement as to the action that will be taken if the maintenance requirement is violated.

[9] The BSE proposes to adopt section 2(m) to Chapter XXII which would provide that in the event that a specialist drops below the additional equity requirement to carry an alternate and/or trading account, such specialist shall be notified in writing by the Exchange that the account is inactive. Under the proposal, a specialist also would be able to request, in writing, inactive status on an alternate or trading account for any reason and without so stating. Finally, the proposal would specify that where an account has been inactivated, in order to reactivate the account, the specialist would have to make a written request to the Exchange and be approved by three floor members of the Market Performance Committee for interim approval subject to ratification by the full committee.

[10] Although the BSE is proposing several amendments to its net capital rules, the BSE proposes to add only trading in an inactive alternate and/or trading account to the List of minor rule violations. The BSE does not consider trading in an inactive alternate and/or trading account to be a violation of the Exchange's net capital rules. Telephone conversation between Karen A. Aluise, Staff Attorney, BSE, and Louis A. Randazzo, Attorney, Commission, on March 25, 1993.

[11] The BSE proposes a fine of $500 for an initial offense and $1,000 for subsequent offenses of this proposed rule.

its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the BSE. All submissions should refer to File No. SR–BSE–93–7 and should be submitted by June 15, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–12311 Filed 5–24–93; 8:45 am]

BILLING CODE 8010–01–M

[File No. 81–913]

Application and Opportunity for Hearing; New Street Capital Corporation and DPI–A Corporation

May 19, 1993.

Notice is hereby given that New Street Capital Corporation ("New Street") and DPI–A Corporation ("DPI–A") have filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended, (the "1934 Act") for an order exempting New Street's Warrants and DPI–A's Common Stock from registration under section 12(g) of the 1934 Act.

For a detailed statement of the information presented, all persons are referred to the application which is on file at the offices of the Commission in the Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549.

Notice is further given that any interested person, not later than June 18, 1993, may submit to the Commission in writing his or her views or any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reasoning for such request, and the issues of fact or law raised by the application which he or she desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponement thereof. At any time after that date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–12312 Filed 5–24–93; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

Bureau of Economic and Business Affairs

[Public Notice 1814]

Finding of No Significant Impact: City of Port Huron, MI

AGENCY: Department of State.

ACTION: Notice of a finding of no significant impact with regard to an application to build, operate and maintain a cross-border railroad tunnel.

SUMMARY: After conducting an environmental assessment, examining public comments and reviewing findings of the U.S. Army Corps of Engineers, the Department of State has concluded that issuance of a Presidential Permit to Canadian National Railroad and three subsidiaries to build, operate and maintain a tunnel between Port Huron, Michigan and Sarnia, Ontario will not have a significant effect on the human environment.

FOR FURTHER INFORMATION ON THE CROSS-BORDER TUNNEL APPLICATION, CONTACT: Stephen M. Miller, Office of Maritime and Land Transport, room 5828, Department of State, Washington DC 20520, (202) 647–6961.

FOR FURTHER INFORMATION ON THE ENVIRONMENTAL ASSESSMENT, CONTACT: Evelyn Wheeler, Office of Ecology, Health, and Conservation, room 4325, Department of State, Washington DC 20520. (202) 647–3367.

SUPPLEMENTARY INFORMATION: Canadian National Railroad (CN), a Canadian Corporation, and three subsidiaries have applied for a Presidential Permit to build, operate and maintain a new railway tunnel under the St. Clair River between Port Huron, Michigan and Sarnia, Ontario, to replace an existing 101 year old tunnel. The new tunnel will be large enough to accommodate doublestack railcars and triple-deck automobile carriers that currently must be broken down and carried by ferry across the river.

The Department of State, Bureau of Oceans and International Environmental and Scientific Affairs and Bureau of Economic and Business Affairs has concluded that issuance of the Permit will not have a significant effect on the human environment. This finding is based on an environmental assessment which included a review of comments submitted in response to the Notice of Application published in the **Federal Register** on December 21, 1992 (57 FR 60552) and findings dated January 29, 1993, of the U.S. Army Corps of Engineers.

After examining construction details, design issues, sediment disruption, groundwater contamination levels, air quality, vibration, noise, effects on fisheries and related issues, the Corps of Engineers found no impacts "which would have the potential for a significant impact on the quality of the human environment." The Department found the Corps' analysis to be persuasive and adopted the Corps' findings in full. The State of Michigan Department of Natural Resources has likewise certified that it anticipates "no adverse impacts to coastal resources."

Dated: May 14, 1993.

Geoffrey Ogden,

Director, Office of Maritime and Land Transport.

[FR Doc. 93–12250 Filed 5–24–93; 8:45 am]

BILLING CODE 4710–07–M

Bureau of Oceans and International Environmental and Scientific Affairs

[Public Notice 1810]

Certification Pursuant to Section 609 of Public Law 101–162

SUMMARY: On May 13, 1993, the Department of State certified, pursuant to Section 609 of Public Law 101–162, that Trinidad and Tobago had adopted a regulatory program governing the incidental taking of sea turtles in its commercial shrimp fishery comparable to that in the United States. As a result of this certification, the ban on shrimp exports from Trinidad and Tobago that has been in effect since May 1, 1993, has been lifted.

EFFECTIVE DATE: May 1, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. Bill Gibbons-Fly, Office of Fisheries Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State, Washington, DC 20520–7818; telephone (202) 647–3940.

SUPPLEMENTARY INFORMATION: Section 609 of Public Law 101–162 prohibits imports of shrimp from certain nations unless the President certifies annually to the Congress either: (1) That the harvesting nation has adopted a program governing the incidental capture of sea turtles in its commercial shrimp fishery comparable to the program in effect in the United States; or (2) that the fishing environmental in the harvesting nations does not pose a threat of the incidental taking of sea turtles. The President has delegated the authority to make this certification to the Department of State. Revised State Department guidelines for making the required certifications were published in the **Federal Register** on February 18, 1993 (58 FR 9015).

The countries subject to the provisions of Public Law 101–162 include Belize, Brazil, Colombia, Costa Rica, French Guiana (EC), Guatemala, Guyana, Honduras, Mexico, Nicaragua, Panama, Suriname, Trinidad and Tobago, and Venezuela. On April 30, 1993, the Department of State certified that 10 of the 14 affected countries have met, for the current year, the requirements of the law. The countries that received a certification at that time were Belize, Brazil, Colombia, Costa Rica, Guatemala, Guyana, Mexico, Nicaragua, Panama and Venezuela. The Department was unable to issue certifications at that time for Honduras, Trinidad and Tobago, Suriname, and French Guiana and, as a result, shrimp imports from these four countries were banned on May 1, 1993.

The Government of Trinidad and Tobago has now provided documentary evidence sufficient to demonstrate that it has met the requirements of certification, including the installation of TEDS on at least 30 percent of its commercial shrimp trawl fleet. Therefore the Department certified on May 13, 1993, that Trinidad and Tobago has met, for the current year, the requirements of Public Law 101–162 and notified the U.S. Customs Service that the ban on imports from Trinidad and Tobago is no longer in effect.

As with the other 10 countries certified on April 30, the Department of State will remain in close contact with the Government of Trinidad and Tobago in order to ensure that the program developed meets the standards of comparability established in the Department's guidelines. Subsequent annual certifications will depend on the extent to which Trinidad and Tobago has bad progress toward full implementation of its program.

Dated: May 13, 1993.

Ambassador David A. Colson,

Deputy Assistant Secretary, Oceans and Fisheries Affairs.

[FR Doc. 93–12265 Filed 5–24–93; 8:45 am]

BILLING CODE 4710–09–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for a Waiver of Compliance

In accordance with 49 CFR 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance with certain requirements of Federal railroad safety regulations. The individual petitions are described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested and the petitioner's arguments in favor or relief.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket No. HS–92–1) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. Communications received before June 21, 1993 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) in room 8201, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

The waiver petitions are as follows:

Monticello Railway Museum (MRMZ) FRA Waiver Petition Docket No. HS–92–09

The MRMZ seeks a permanent exemption from the recordkeeping requirements of 49 CFR 228.9 and 228.11. The MRMZ states that due to its limited operation and that they cannot afford to pay a clerical staff to maintain these records it should not be required to keep the records. The MRMZ provides service over 3 miles of privately owned trackage.

Cambria & Indiana Railroad Co. (CI) FRA Waiver Petition Docket No. HS–92–11

the CI seeks an exemption so it may permit certain employees to remain on duty not more than 16 hours in any 24-hour period. The CI states that it is not its intention to employ a train crew over 12 hours per day under normal circumstances, but this exemption, if granted, would help its operation if unusual operating conditions are encountered. The CI provides service over a single track railroad primarily within a coal mine. The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts it employs not more than 15 employees and has demonstrated good cause for granting this exemption.

Algers, Winslow & Western Railroad Co. (AWW) FRA Waiver Petition Docket No. HS–93–01

The AWW seeks an exemption so it may permit certain employees to remain on duty not more than 16 hours in any 24-hour period. The AWW states that it is not its intention to employ a train crew over 12 hours per day under normal circumstances, but this exemption, if granted, would help its operation if unusual operating conditions are encountered. The AWW provides freight service over 16 miles of trackage within Pike County, Indiana.

The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts it employs not more than 15 employees and has demonstrated good cause for granting this exemption.

Port Terminal Railroad of South Carolina (PTR) FRA Waiver Petition Docket No. HS–93–02

The PTR seeks an exemption so it may permit certain employees to remain on duty not more than 16 hours in any 24-hour period. The PTR states that it is not its intention to employ a train crew over 12 hours per day under normal circumstances, but this exemption, if granted, would help its operation if unusual operating conditions are encountered. The PTR is a Terminal Switching Railroad operating within the County of Charleston, South Carolina over a two-thirds of a mile of trackage between North Charleston and Charleston, South Carolina. The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts it employs not more than 15 employees and has demonstrated good cause for granting this exemption.

Port Utilities Commission of South Carolina (PUCC) FRA Waiver Petition Docket No. HS–93–03

The PUCC seeks an exemption so it may permit certain employees to remain on duty not more than 16 hours in any 24-hour period. The PUCC states that it is not its intention to employ a train crew over 12 hours per day under normal circumstances, but this exemption, if granted, would help its operation if unusual operating conditions are encountered. The PUCC is a Terminal Switching Railroad operating within the County of Charleston, South Carolina over a 1.5 miles of trackage of North Charleston, South Carolina. The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts it employs not more than 15 employees and has demonstrated good cause for granting this exemption.

East Cooper & Berkeley Railroad (ECBR) FRA Waiver Petition Docket No. HS–93–04

The ECBR seeks an exemption so it may permit certain employees to remain on duty not more than 16 hours in any 24-hour period. The ECBR states that it is not its intention to employ a train crew over 12 hours per day under normal circumstances, but this exemption, if granted, would help its operation if unusual operating conditions are encountered. The ECBR provides service over 15.5 miles of track in Berkeley County, between State Junction and Charity Church, South Carolina.

The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts its employs not more than 15 employees and has demonstrated good cause for granting this exemption.

Port Royal Railroad (PRYL) FRA Waiver Petition Docket No. HS–93–05

The PRYL seeks an exemption so it may permit certain employees to remain on duty not more than 16 hours in any 24-hour period. The PRYL states that it is not its intention to employ a train crew over 12 hours per day under normal circumstances, but this exemption, if granted, would help its operation if unusual operating conditions are encountered. The PRYL provides service over 25.5 miles of trackage between Yemassee and Beaufort, South Carolina.

The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts it employs not more than 15 employees and has demonstrated good cause for granting this exemption.

Pioneer Valley Railroad (PVRR) FRA Waiver Petition Docket No. HS–93–07

The PVRR seeks a continuation of a previously issued exemption so it may permit certain employees to remain on duty not more than 16 hours in any 24-hour period. The PVRR states that it is not its intention to employ a train crew over 12 hours per day under normal circumstances, but this exemption, if granted, would help its operation if unusual operating conditions are encountered.

The PVRR provides service over 26 miles of trackage between Westfield and Holyoke, and Westfield and Easthampton, all within the state of Massachusetts.

The petitioner asserts it employs not more than 15 employees and has demonstrated good cause for granting this exemption.

J.K. Line Inc. (JKL) FRA Waiver Petition Docket No. HS–93–08

The JKL seeks an exemption so it may permit certain employees to remain on duty not more than 16 hours in any 24-hour period. The JKL states that it is not its intention to employ a train crew over 12 hours per day under normal circumstances, but this exemption, if granted, would help its operation if unusual operating conditions are encountered. The JKL provides service over 16 miles of trackage within the County of Monterey, Indiana.

The petitioner asserts it employs not more than 15 employees and has demonstrated good cause for granting this exemption.

McCloud Railway Co. (MCR) FRA Waiver Petition Docket No. HS–93–09

The MCR seeks an exemption so it may permit certain employees to remain on duty not more than 16 hours in any 24-hour period. The MCR states that it is not its intention to employ a train crew over 12 hours per day under normal circumstances, but this exemption, if granted, would help its operation if unusual operating conditions are encountered. The MCR provides service over 96 miles of trackage between Siskiyou and Shasta Counties and 34 miles of Burlington Northern branch line between Hambone and Lookout, California.

The petitioner asserts it employs not more than 15 employees and has demonstrated good cause for granting this exemption.

Atlantic & Gulf Railroad (AGLF) FRA Waiver Petition Docket No. HS–93–10

The AGLF seeks an exemption so it may permit certain employees to remain on duty not more than 16 hours in any 24-hour period. The AGLF states that it is not its intention to employ a train crew over 12 hours per day under normal circumstances, but this exemption, if granted, would help its operation if unusual operating conditions are encountered. The AGLF provides service over 79.4 miles of trackage, 59.6 miles of which is class 2 and 15.3 is excepted. Trains operate between Albany and Thompsonville, Georgia.

The petitioner asserts it employs not more than 15 employees and has demonstrated good cause for granting this exemption.

Texas North Western Railway Co. (TXNW) FRA Waiver Petition Docket No. HS–93–11

The TXNW seeks a continuation of a previously issued exemption so it may permit certain employees to remain on duty not more than 16 hours in any 24-hour period. The TXNW states that it is not its intention to employ a train crew over 12 hours per day under normal circumstances, but this exemption, if granted, would help its operation if unusual operating conditions are encountered. The TXNW provides

service over 31.4 miles of trackage between Sheerin to Etter and Sheerin to Morse, Texas and 11.1 branch line miles between Sheerin and Pringle, Texas.

The petitioner asserts it employs not more than 15 employees and has demonstrated good cause for granting this exemption.

Connecticut Central Railroad (CCCL) FRA Waiver Petition Docket No. HS–93–12

The CCCL seeks a continuation of a previously issued exemption so it may permit certain employees to remain on duty not more than 16 hours in any 24-hour period. The CCCL states that it is not its intention to employ a train crew over 12 hours per day under normal circumstances, but this exemption, if granted, would help its operation if unusual operating conditions are encountered. The CCCL provides service over 12 miles of trackage divided into five branch lines all located between Middletown and Middlefield, Connecticut.

The petitioner asserts it employs not more than 15 employees and has demonstrated good cause for granting this exemption.

Prescot & Northwestern Railroad Co. (PNW) FRA Waiver Petition Docket No. HS–93–13

The PNW seeks a continuation of a previously issued exemption so it may permit certain employees to remain on duty not more than 16 hours in any 24-hour period. The PNW states that it is not its intention to employ a train crew over 12 hours per day under normal circumstances, but this exemption, if granted, would help its operation if unusual operating conditions are encountered. The PNW provides service over 2 miles of trackage in Prescot, Arkansas.

The petitioner asserts it employs not more than 15 employees and has demonstrated good cause for granting this exemption.

Wiregrass Central Railroad (WGCR) FRA Waiver Petition Docket No. HS–93–14

The WGCR seeks an exemption so it may permit certain employees to remain on duty not more than 16 hours in any 24-hour period. The WGCR states that it is not its intention to employ a train crew over 12 hours per day under normal circumstances, but this exemption, if granted, would help its operation if unusual operating conditions are encountered. The WGCR provides service over 15 miles of main track. Trains operate between Waterford and Enterprise, Alabama. The WGCR operates over two miles of CSX Transportation trackage for interchange purposes.

The petitioner asserts it employs not more than 15 employees and has demonstrated good cause for granting this exemption.

Mississippi Delta Railroad (MSDR) FRA Waiver Petition Docket No. HS–93–15

The MSDR seeks an exemption so it may permit certain employees to remain on duty not more than 16 hours in any 24-hour period. The MSDR states that it is not its intention to employ a train crew over 12 hours per day under normal circumstances, but this exemption, if granted, would help its operation if unusual operating conditions are encountered. The MSDR provides service over 57 miles of main track in the state of Mississippi. The tracks run from Lyon to Lula, Swan Lake to Lyon and Lula to Jonestown, Mississippi. The MSDR interchanges with the Illinois Central at Swan Lake, Mississippi.

The petitioner asserts it employs not more than 15 employees and has demonstrated good cause for granting this exemption.

Hartford & Slocomb Railroad Co. (HS) FRA Waiver Petition Docket No. HS–93–16

The HS seeks an exemption so it may permit certain employees to remain on duty not more than 16 hours in any 24-hour period. The HS states that it is not its intention to employ a train crew over 12 hours per day under normal circumstances, but this exemption, if granted, would help its operation if unusual operating conditions are encountered. The HS provides service over 22 miles or main track, approximately 3 miles of which is owned by the Southern Railway. Trains operate between Dothan and Hartford, Alabama. The HS operates over Centeral of Georgia Railroad trackage at Dothan, Alabama.

The petitioner asserts it employs not more than 15 employees and has demonstrated good cause for granting this exemption.

Issued in Washington, DC, on May 18, 1993.

Phil Olekszyk,

Deputy Associate Administrator for Safety.

[FR Doc. 93–12284 Filed 5–24–93; 8:45 am]

BILLING CODE 4910–06–M

National Highway Traffic Safety Administration

[Docket No. 88–20, Notice 2]

NHTSA's Traffic Safety Plan for Older Persons and Addressing the Safety Issues Related to Younger and Older Drivers, A Report to Congress

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of two publications, NHTSA's Traffic Safety Plan for Older Persons (DOT HS 807 966, April 1993) and Addressing the Safety Issues Related to Younger and Older Drivers, A Report to Congress (DOT HS 807 957, January 1993). The *Plan* was developed in response to Congressional directive (House Report #102–639). It describes major agency efforts related to Problem Identification, Program Development and Program Evaluation as they relate to older drivers, older vehicle occupants, and older pedestrians. It updates the original agency Traffic Safety Plan for Older Driver Persons, published in 1988. Addressing the Safety Issues was also prepared as directed by Congress (Senate Report #102–148). It presents a current summary of agency research plans as they pertain to the problems of younger drivers and the special needs of older drivers. It presents data that describe the number of licensed drivers by age group, fatality and crash incidence and rates, alcohol and drug use, driver error, and other factors that characterize these two groups of drivers.

FOR FURTHER INFORMATION: Interested persons may obtain a copy of either document free of charge by writing to the National Highway Traffic Safety Administration, Distribution Services, 400 7th Street SW., NASD–51, Washington, DC 20590. Please include a self-addressed mailing label. For additional information regarding the Traffic Safety Plan for Older Persons please contact Ms. Joan Harris, NHTSA, Office of Plans and Policy, 400 7th Street SW., NPP–32, Washington, DC 20590 (202–366–2578). For information regarding Addressing the Safety Issues Related to Younger and Older Drivers, A Report to Congress, please contact Ms. Hazel Maddox, NHTSA, Office of Traffic Safety Programs, 400 7th Street SW., NTS–31, Washington, DC 20590 (202–366–4892).

Dated: May 20, 1993.

Donald C. Bischoff,

Associate Administrator for Plans and Policy.

[FR Doc. 93–12320 Filed 5–24–93; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–1005

Regulation ID Number: LR–62–87 NPRM, LR–61–87 TEMP, and PS–62–87 FINAL

Type of Review: Extension

Title: Low-Income Housing Credit for Federally-Assisted Buildings

Description: The rule requires the taxpayer (low-income building owner) to seek a waiver in writing from the IRS concerning low-income buildings acquired during a special 10-year period in order to avert a claim against a Federal mortgage insurance fund.

Respondents: Individuals or households, State or local governments, Businesses or other for-profit, Federal agencies or employees, Non-profit institutions, Small businesses or organizations

Estimated Number of Respondents: 1,000

Estimated Burden Hours Per Respondent: 3 hours

Frequency of Response: On occasion

Estimated Total Reporting Burden: 3,000 hours

Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Department Reports Management Officer.

[FR Doc. 93–12366 Filed 5–24–93; 8:45 am]

BILLING CODE 4830–01–M

Public Information Collection Requirements Submitted to OMB for Review

May 18, 1993.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Office of Thrift Supervision

OMB Number: 1550–0065

Form Number: None

Type of Review: Extension

Title: Salvage Power to Assist Service Corporation

Description: 12 CFR 563.38 permits savings associations to exercise salvage power to assist service corporations, in accordance with the requirements of said section.

Respondents: Businesses or other for-profit

Estimated Number of Respondents: 10

Estimated Burden Hours Per Respondent: 8 hours

Frequency of Response: On occasion

Estimated Total Reporting Burden: 80 hours

Clearance Officer: Colleen Devine, (202) 906–6025, Office of Thrift Supervision, 2nd Floor, 1700 G. Street NW., Washington, DC 20552.

OMB Reviewer: Gary Waxman, (202) 395–7340, Office of Management and Budget, room 3208, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 93–12367 Filed 5–24–93; 8:45 am]

BILLING CODE 4810–25–M

Public Information Collection Requirements Submitted to OMB for Review

May 18, 1993.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171, Treasury Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Departmental Offices

OMB Number: 1505–0001

Form Number: International Capital Form S

Type of Review: Extension

Title: Purchases and Sales of Long-Term Securities by Foreigners

Description: This form is filed by banks, other depository institutions, brokers, dealers, and other firm or intermediaries in the U.S., who deal directly with foreign residents (or their nominees) in transacting purchases or sales of long-term U.S. or foreign securities.

Respondents: Businesses or other for-profit

Estimated Number of Respondents: 450

Estimated Burden Hours Per Response: 5 hours

Frequency of Response: Monthly

Estimated Total Reporting Burden: 27,000 hours

Clearance Officer: Lois K. Holland, (202) 622–1563, Departmental Offices, room 3171, Treasury Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 93–12328 Filed 5–24–93; 8:45 am]

BILLING CODE 4810–25–M

Sunshine Act Meetings

Federal Register
Vol. 58, No. 99
Tuesday, May 25, 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).

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10:30 a.m. on Wednesday, May 26, 1993, to consider the following matter:

Summary Agenda

No cases scheduled.

Discussion Agenda

Memorandum and resolution re: Proposed amendments to Part 323 of the Corporation's rules and regulations, entitled "Appraisals."

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, DC.

The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call (202) 898–6745 (Voice); (202) 898–3509 (TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Deputy Executive Secretary of the Corporation, at (202) 898–6757.

Dated: May 20, 1993.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 93–12436 Filed 5–21–93; 10:14 am]

BILLING CODE 6714–01–M

UNITED STATES INTERNATIONAL TRADE COMMISSION

[USITC SE–93–16]

TIME AND DATE: June 2, 1993 at 9:30 a.m.

PLACE: Room 101, 500 E Street S.W. Washington, DC 20436.

STATUS: Open to the public.

1. Agenda for future meetings
2. Minutes
3. Ratification List
4. Invs. Nos. 731–TA–646–649 (Preliminary) (Certain Steel Wire Rod from Brazil, Canada, Japan, and Trinidad and Tobago).—briefing and vote.
5. Outstanding action jacket requests
   1. ID–93–006, Report on Inv. No. 332–329, Global Competitiveness of U.S. Advanced-Technology Industries: Cellular Communications
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Paul R. Bardos, Acting Secretary, (202) 205–2000.

Issued: May 20, 1993.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–12507 Filed 5–21–93; 3:35 pm]

BILLING CODE 7020–02–P

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of May 24, 31, June 7, and 14, 1993.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of May 24

Wednesday, May 26

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Randall C. Orem, D.O.—Commission Action on Settlement Agreement Approved in LBP–92–18 (Tentative)
(Contact: Steve Burns, 301–504–2184)
b. Sacramento Municipal Utility District's Motion for Reconsideration of CLI–93–03 (Rancho Seco) (Tentative)
(Contact: Margaret Doane, 301–504–2001)

2:00 p.m.
Briefing on Status of Efforts for Risk Harmonization (Public Meeting)
(Contact: Richard Bangart, 301–504–3340)

Week of May 31—Tentative

Tuesday, June 1

10:00 a.m.
Briefing on Development of Standards, Certification Process, and Status of U.S. Enrichment Corporation Transition (Public Meeting)
(Contact: John Hickey, 301–504–3328)

2:00 p.m.
Briefing on Status of BWR Water Level Indicators (Public Meeting)
(Contact: Ashok Thadani, 301–504–3884)

Wednesday, June 2

10:00 a.m.
Briefing on Progress of Design Certification Review and Implementation (Public Meeting)
(Contact: Dennis Crutchfield, 301–504–1159 or Richard Borchardt, 301–504–1193)

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

2:30 p.m.
Briefing on Investigative Matters (Closed—Ex. 5 and 7)

Friday, June 4

10:00 a.m.
Briefing on Status of Enhanced Participatory Rulemaking (Public Meeting)
(Contact: Chip Cameron, 301–504–1642)

2:00 p.m.
Briefing on Status of Design Basis Threat Reevaluation (Public Meeting)
(Contact: Robert Burnett, 301–504–3365)

Week of June 7—Tentative

Thursday, June 10

12:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of June 14—Tentative

Wednesday, June 16

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To Verify the Status of Meeting Call (Recording)—(301) 504–1292.

CONTACT PERSON FOR MORE INFORMATION: William Hill, (301) 504–1661.

Dated: May 21, 1993.

Andrew L. Bates,

Chief, Operations Branch, Office of the Secretary.

[FR Doc. 93–12512 Filed 5–21–93; 3:39 pm]

BILLING CODE 7590–01–M

federal register

Tuesday
May 25, 1993

Part II

Department of Education

48 CFR Part 3410
Acquisition Regulations; Final Rule

DEPARTMENT OF EDUCATION

48 CFR Part 3410

RIN 1880–AA52

Department of Education Acquisition Regulation

AGENCY: Department of Education.

ACTION: Final Regulation.

SUMMARY: The Secretary amends the Department of Education Acquisition Regulation (Chapter 34 of title 48 of the Code of Federal Regulations (CFR)) to add a new part 3410. This final regulation provides for use of the metric system in the Department's acquisition planning phase in accordance with the Metric Conversion Act of 1975, as amended. The regulation also provides for the use of metric units of measurement in solicitations. The intended effect is to provide guidance with respect to the Department's contracting activities; encourage contractors to convert to the International System of Units; and invite contractors to make the Department aware of their ability to furnish conforming supplies and services in metric units.

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

FOR FURTHER INFORMATION CONTACT: Verbena R. Crowley. U.S. Department of Education, 400 Maryland Avenue, SW., room 3636, ROB–3, Washington, DC 20202–4700. Telephone: (202) 708–8528. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time.

SUPPLEMENTARY INFORMATION: Section 3 of the Metric Conversion Act of 1975, as amended by section 5164 of the Omnibus Trade and Competitiveness Act of 1988, Public Law 100–418 (15 U.S.C. 205b), designates the metric system of measurement as the preferred system of weights and measures for United States trade and commerce. Section 3 requires that, by September 30, 1992, each Federal agency, to the extent economically feasible, shall use the metric system of measurements in its procurements, and other business-related activities, subject to certain exceptions stated in that section. Executive Order 12770 (Metric Usage in Federal Government Programs) published in the **Federal Register** on July 29, 1991 (56 FR 35801) implements provisions of this Act. This final regulation also responds to guidance issued by the Department of Commerce under the Act (15 CFR part 1170).

On November 27, 1992, the Secretary published a notice of proposed rulemaking for this part in the **Federal Register** (57 FR 56416) proposing amendments to the Department of Education Acquisition Regulation to add provisions requiring the use of the metric system in order to carry out the purpose of the Metric Conversion Act, as amended.

This final regulation seeks to effect change in the way the Department procures goods and services from contractors who use the metric system. If the industry is one in which the metric system is the accepted system of weights and measures, the Department will state its specifications and purchase descriptions in metric units. This will require offerors in these industries to include specifications and purchase descriptions for products or services in metric units.

If the industry is not one in which the metric system is the accepted system, subject to the stated exceptions, the Department will ensure that solicitations (in excess of the small purchase threshold) permit offerors to propose products or services in metric units.

In this way, the Department will systematically encourage use of the metric system by its contractors and will contribute to carrying out the objectives of the Metric Conversion Act.

Public Comment

In the NPRM the Secretary invited comments on the proposed regulation. The Secretary did not receive any substantive comments. The Secretary has made no changes in this regulation since publication of the NPRM.

Executive Order 12291

This regulation has been reviewed in accordance with Executive Order 12291. It is not classified as major because it does not meet the criteria for major regulations established in the order.

Paperwork Reduction Act of 1980

This regulation has been examined under the Paperwork Reduction Act of 1980 and has been found to contain no information collection requirements.

Assessment of Educational Impact

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulation would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the proposed rule and on its own review, the Department has determined that the regulation in this document does not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 48 CFR Part 3410

Government procurement, Metric system.

(Catalog of Federal Domestic Assistance Number does not apply)

Dated: April 15, 1993.

Richard W. Riley,

Secretary of Education.

The Secretary amends subchapter B of chapter 34 of title 48 of the Code of Federal Regulations by adding a new part 3410 to read as follows:

PART 3410—SPECIFICATION STANDARDS AND OTHER PURCHASE DESCRIPTIONS

Subpart 3410.7—Use of Metric System

Sec.

Authority: 15 U.S.C. 205b.

Subpart 3410.7—Use of Metric System

§ 3410.701 Policy of the Department of Education with respect to use of the metric system.

It is the policy of the Department of Education to encourage use of the metric system in industry standards, consistent with the legal status of this system as the preferred system of weights and measures for United States trade and commerce.

§ 3410.702 Definitions.

Department means the United States Department of Education.

Metric system (a) This term means the International System of Units established by the General Conference of Weights and Measures in 1960.

(b) The units are listed in Federal Standard 376A, "Preferred Metric Units for General Use by the Federal Government."

§ 3410.703 Responsibilities of the Department of Education with respect to use of the metric system.

(a) Consistent with the Federal Acquisition Regulation System, contracting officers of the Department shall—

(1) Accept, without prejudice, products and services dimensioned in metric units if they are offered at competitive prices and meet the needs of the Department; and

(2) Ensure that acquisition planning considers these products and services.

(b) Consistent with the policy in the Metric Conversion Act, as amended, and in § 3410.701, if the metric system is the accepted system of weights and measures in a particular industry, the Department ensures that solicitations include specifications and purchase descriptions stated in metric units of measurement.

(c) If the metric system is not the accepted system of weights and measures in a particular industry, the Department ensures that solicitations for procurements in excess of the small purchase threshold permit offerors to propose products or services in metric units of measurement, except when to do this would be detrimental to the purpose of the affected program.

[FR Doc. 93–12285 Filed 5–24–93; 8:45 am]

BILLING CODE 4000–01–P

federal register

Tuesday
May 25, 1993

Part III

Department of Commerce

International Trade Administration

Foreign Buyer Program; Support for Domestic Trade Shows; Notice

DEPARTMENT OF COMMERCE

International Trade Administration

[Docket Number 930226–3026]

Foreign Buyer Program; Support for Domestic Trade Shows

AGENCY: International Trade Administration; U.S. Department of Commerce.

ACTION: Notice of call for applications for the FY95 Foreign Buyer Program (October 1, 1994, through September 30, 1995).

SUMMARY: This notice sets forth objectives, procedures and application review criteria associated with the U.S. Department of Commerce's Foreign Buyer Program to support domestic trade shows.

The Foreign Buyer Program was established to bring international buyers together with U.S. firms by promoting leading U.S. trade shows in industries with high export potential. The Foreign Buyer Program emphasizes cooperation between the Department and trade show organizers to benefit U.S. firms exhibiting at selected events and provides practical, hands-on assistance to U.S. companies interested in exporting such as export counseling and market analysis. The assistance provided to show organizers includes worldwide overseas promotion of selected shows to potential international buyers, end-users, representatives and distributors. The worldwide promotion is executed through the offices of the Commerce Department's U.S. and Foreign Commercial Service (US&FCS) in 67 countries representing America's major trading partners, and also in U.S. Embassies in countries where the US&FCS does not maintain offices. Shows selected for the Foreign Buyer Program will provide a venue for U.S. companies interested in expanding their sales into international markets.

DATES: Applications must be received by July 9, 1993.

ADDRESSES: Export Promotion Services/ Foreign Buyer Program, U.S. and Foreign Commercial Service (US&FCS), International Trade Administration, U.S. Department of Commerce, room 2116, 14th and Constitution Avenue, NW., Washington, DC 20230. Tel.: (202) 482–0481 (facsimile applications will not be accepted).

FOR FURTHER INFORMATION: Contact Bill Crawford, Product Manager, Foreign Buyer Program, room 2116, Export Promotion Services, U.S. and Foreign Commercial Service, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230. Tel.: (202) 482–0481 or FAX: (202) 482–0115.

SUPPLEMENTARY INFORMATION: The International Trade Administration of the U.S. Department of Commerce is accepting applications for the Foreign Buyer Program (FBP) for events taking place between October 1, 1994, and September 30, 1995.

Under the FBP, the Department seeks to bring international buyers together with U.S. firms by selecting and promoting in international markets domestic trade shows in industries with high export potential. Selection of a trade show is one-time, i.e., a trade show organizer seeking selection for a recurring event must submit a new application for selection for each occurrence of the event. If the event occurs more than once in the 12 month period covering this announcement, the trade show organizer must submit a separate application for each event.

The Department will select 22 events to support during this 12 month period. The Department will select those events that, in its judgment, most clearly meet the Department's objectives and selection criteria.

Selection indicates that the Department has found the event to be a leading international trade show appropriate for participation by U.S. exporting firms and promotion in overseas markets by U.S. Embassies and Consulates. Selection does not constitute a guarantee by the U.S. Government of success of the show or of the undertakings or obligations of the show organizer. Selection is not an endorsement of the show organizer except as to its Foreign Buyer activities. Non-selection should not be viewed as a finding that the event will not be successful in the promotion of U.S. exports.

The Office of Management and Budget has approved the information collection requirement contained in this notice under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) (OMB number 0625–0151 approved for use through 9/30/94).

Public reporting burden for this collection of information is estimated to average 3 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Reports Clearance Officer, International Trade Administration, room 4001, U.S. Department of Commerce, Washington, DC 20230 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (0625–0151), Washington, DC 20503.

General Selection Criteria

Subject to Departmental budget and resource constraints, those events will be selected that, in the judgment of the Department, most clearly meet the following criteria:

(a) *Export Potential:* The products and services to be promoted at the trade show are from U.S. industries that have high export potential, as determined by U.S. Department of Commmerce sources, i.e., best prospects lists and U.S. export statistics. (Certain industries are rated as priorities by our domestic and international commercial officers in their annual workplans and country marketing plans).

(b) *International Interest:* The trade show meets the needs of a significant number of overseas markets covered by the US&FCS and corresponds to marketing opportunities as identified by the posts in their country marketing plans (e.g., best prospects lists). Previous international attendance at the show may be used as an indicator.

(c) *Scope of the Show:* The trade show offers a broad spectrum of U.S. made products and/or services for the subject industry. Trade shows with a majority of U.S. firms will be given preference.

(d) *Stature of the Show:* The trade show is clearly recognized by the industry it covers as a leading event for the promotion of that industry's products and services both domestically and internationally and as a showplace for the latest technology or techniques in that industry.

(e) *Exhibitor Interest:* There is demonstrated interest on the part of U.S. exhibitors in receiving international business visitors during the trade show. A significant number of these exhibitors should be new-to-export or seeking to expand sales into additional international markets.

(f) *Overseas Marketing:* There is demonstrated effort made to market prior shows overseas. In addition, international marketing program to be made for the event for which FBP support is being sought should be described in detail, explaining how efforts should increase individual and group international attendee attendance (see specific responsibilities of the Show Organizer, e).

(g) *Logistics:* The trade show site, facilities, transportation services and

availability of accommodations are in the stature of an international-class trade show.

(h) *Cooperation:* The applicant demonstrates its willingness to cooperate with the US&FCS to fulfill the program's goals, and to adhere to target dates set out in the Memorandum of Understanding (see description below) and the event timetable.

Note: Past experience in the FBP will be taken into account in evaluating current application to the program.

Department of Commerce Support of FBP

The support provided for selected events may differ depending on the specific needs identified and agreed upon by the Department and the show organizer. Services may include, but are not limited to, special overseas marketing efforts by staff of the US&FCS. Such marketing activities include contacting key international government and private sales prospects and providing publicity in appropriate Departmental periodicals.

Specific Department Actions

For each FBP show the Department of Commerce (DOC) will:

(a) Designate a project manager as central contact to work with the show organizer on all aspects of promotion abroad and international buyer assistance at the show. The project manager will work closely with the show organizers' contact to develop an overall promotional timetable to promote the event.

(b) Advise and work closely with all interested U.S. Embassies and Consulates to encourage maximum trade show promotion and exposure for those exhibitors indicating export interest.

(c) Promote industry trade show participation through announcements in publications with overseas distribution (e.g., regional and embassy commercial newsletters, and Commercial News USA).

(d) Provide show organizer with specifications of a DOC-designed hard panel system International Business Center (IBC), including furniture requirements, DOC office, conference rooms, lounge area, storage area, etc.

(e) Provide show organizer with samples of multi-language brochures, U.S. Embassy/Consulate address labels, U.S. Government shipping instructions and quantities required for overseas shipment.

(f) Provide show organizer with promotional articles about the FBP and the services available to U.S. exhibitors and international visitors at the IBC; and will send a letter with program flyer to all U.S. exhibitors at least one month before the show to promote the IBC and the benefits of the program.

(g) Request US&FCS District Offices in the U.S. to provide export counseling or specific marketing information to those U.S. participants that have indicated a need for such counseling before and during the show.

(h) License the use of the FBP logo on promotional materials for the event [and on exhibitor facilities at the event], such use being in all cases subject to prior approval by DOC.

(i) Provide a final show report to the show organizer not later than 120 days after the show. This report will include data collected by show organizer in a post show survey reflecting FBP results.

(j) Provide at the trade show site:

1. At least one project manager who will provide primary management of the IBC, facilitate matching international buyers with exhibiting U.S. companies, and inform U.S. companies about DOC products and services and other International Trade Administration programs.

2. At least one Trade Specialist from a US&FCS District Office who will be available during the show to provide additional export counseling.

3. Export counseling at the IBC to exhibitors.

4. Assistance to international buyers to meet their purchasing/representation objectives during the show.

5. US&FCS staff to participate, if appropriate, in special export promotion seminars specifically aimed at new-to-market and new-to-export firms exhibiting at the trade show.

Note: Any export-related seminars offered at the show should be coordinated with the project manager in Washington. The project manager will provide assistance in planning, selection of speakers, execution, etc.

Specific Responsibilities of the Show Organizer

Show organizers selected for the FBP must:

(a) Designate an official authorized to work with the US&FCS project manager on all aspects of the show promotion as well as a contact during the show to assist with international visitor information and product referral (matchmaking services).

(b) Produce and distribute a multilingual promotional brochure in four or more languages and in the quantities specified by the project manager for overseas distribution. A draft of the brochure must be approved by the project manager prior to printing and include the FBP logo and information on the program and the services available for the international buyer. These brochures must be printed not less than six months prior to the show.

(c) Provide to all Embassies/Consulates worldwide names of attendees to the most recent show (by country and on mailing labels if possible), most recent show directory/exhibits guide, and a press release directed to prospective international attendees. This information should be included in shipment of multilanguage brochures. Copies of Commercial News USA advertisement, promotional video, etc., also may be made available.

(d) Produce a one-page promotional advertisement to be placed in Commercial News USA. Advertisement must be approved by the project manager, have FBP logo prominently and appropriately displayed, and refer international firms to "the Commercial Section of the nearest U.S. Embassy or Consulate" for information on the show(s).

(e) Develop a program to promote show overseas and describe international marketing efforts to be made for the event for which FBP support is being sought. Program should describe how show management expects to increase individual and group international attendance. Program may include, for example, competitive travel packages, international receptions, or waived or reduced admission fees for international attendees to the exhibition or conference. Waived or reduced admission fees are required for international attendees who are members of Embassy delegations.

(f) Provide overseas posts with hotel information at least 6 months prior to the event. Coordinate hotel reservations arrangements. Coordinate with U.S. Embassies or their designated travel agent for the reservation of blocks of hotel rooms for Embassy delegations.

(g) With guidance from project manager, prepare and distribute an information letter and survey to U.S. exhibitors approximately five months before the show to determine interest in exporting and international marketing objectives. Information collected will include products or services that the U.S. exhibitors wish to export, international marketing objectives and geographic areas of interest to the company.

(h) Incorporate into the show directory or a separate Export Interest Directory the information on export interests of U.S. exhibitors (paragraph g above). If published as an Export Interest Directory, two to three copies will be distributed to all Department of Commerce posts overseas 1–3 months before the show and copies provided to

all international attendees at the show. If published in the show directory, copies will be distributed to overseas posts upon completion of the show. In accordance with DOC policy, products and services included in the Export Interest Directory must be either (1) produced, manufactured or assembled in the United States, or (2) contain no less than 51 percent U.S. content and be marketed as a U.S. product. Preliminary copies of directories may be distributed overseas prior to the show, if possible. Mailing labels will be provided by Commerce.

(i) Establish an IBC at the show in a prominent location adjacent to the main registration area with conspicuous display of signage throughout the show to indicate its location. The IBC will consist of a separate registration area for international visitors (see item m), lounge area, 2 to 3 conference rooms, and a business office for DOC officials (a separate office for Embassy delegation leaders is recommended for shows expecting more than five delegations). The show organizer will staff the IBC with interpreters covering 5–7 languages. DOC design specifications do not allow for pipe and drape at the IBC. A hard panel system is required (recommend clear/smoked walls as appropriate). A business services center (photocopying, facsimile service, typing, etc.) for attendees and exhibitors may be located within the IBC.

(j) Provide to the project manager a proposed convention center floor layout indicating the location and dimensions of the IBC at least six (6) months prior to the event.

(k) Provide all U.S. exhibitors with information about the IBC and DOC services prior to the show and encourage them to visit the IBC.

(l) Include a one-page advertisement in the show directory/exhibits guide highlighting the FBP and the IBC, and publish in the Show Daily or other affiliated industry publications articles describing the FBP and the services provided at the IBC. Copy may be supplied by the Department of Commerce.

(m) Establish a separate international registration system to ease the processing of international attendees and to ensure DOC project managers' access to all international attendees at time of registration and to facilitate distribution of the Export Interest Directory and International Visitor Interest Cards. The registration area should be located within the IBC or adjacent to it.

(n) Distribute to all international attendees the Export Interest Directory and International Visitor Interest Cards. The International Visitor Interest Cards should include the product interest and marketing objectives of international buyers interested in meeting with U.S. exhibitors. (Show organizers are encouraged to computerize this information). The International Visitor Interest Cards will be posted at the IBC for the benefit of U.S. exhibitors and U.S. attendees interested in international business.

Important

The show organizer must provide a cashier to process all international registration and seminar fees. DOC employees are not bonded and, therefore, cannot handle currency.

(o) Disseminate at the conclusion of the event the compiled International Visitor Interest Cards to all U.S. exhibitors indicating interest in international business. This information must also be provided to U.S. attendees either at no cost or at a reasonable cost.

(p) Within 3 months following the show, send the following information to all posts: Thank you letter with results of the FBP event (e.g., country attendance comparisons with the previous show). Information on the next show, copies of the export interest and show directories, importer profile and printout of the names and addresses of the international attendees from the respective countries may also be sent (Embassy/Consulate mailing labels will be provided by the project manager).

(q) Send DOC end-of-show survey to all U.S. exhibitors in the Export Interest Directory to determine international business (DOC will provide survey form and self-addressed return envelope). This information will be incorporated into the final report to be prepared by the DOC project manager. Recommend survey be sent with the dissemination of the International Visitor Interest Cards, see item (o).

(r) Upon notification of acceptance into the FBP, remit the appropriate contribution. For this recruitment period the contribution is $4,000 for shows of 5 days or less in duration. For shows over 5 days in duration the fee is $6,000.

Exclusions

Trade shows will not be considered that are either first time events or are horizontal, that is, not industry specific. Annual trade shows will not be selected for this program more than twice in any three year period (e.g., shows selected for fiscal years 1993 and 1994 are not eligible for inclusion in this program in fiscal year 1995, but can be considered in subsequent years).

When, Where and How To Apply for Selection in the 1995 Foreign Buyer Program

Except to the extent required by law, no information of a proprietary nature reported on this application will be disclosed without the prior written consent of the Applicant. Companies submitting confidential or proprietary commercial or financial information should identify that information, and include a statement that the company does not customarily release the information to the public.

Please type the information requested below on company letterhead and mail two (2) complete sets of your application to: Product Manager, FBP, room 2116, Cooperative Events Division, OEMP/EPS, U.S. and Foreign Commercial Service, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230.

Applications must be received at the above address by July 9, 1993. Facsimile applications will not be accepted.

Answers to the questions listed below constitute the application:

(1) Name of show.
(2) Site of show.
(3) Dates of show. Indicate if show is held annually, biennially, or other.
(4) Name, address, and phone number of applicant.
(5) Name, address, and phone number of applicant contact.
(6) Name, address, and phone number of show sponsor (trade association, national or state government, etc.)
(7) Basic history or description of show. Applicant must demonstrate that subject event is a leading international trade show for the industry (e.g., what makes this show unique compared to other U.S. or international shows?). Explain how show covers products with high export potential. Provide industry export statistics, if available. Include copies of previous show promotion materials.
(8) Resume of applicant's show experience.
(9) Number of total exhibitors at the past two shows (separate U.S. and international).
(10) Specify net square feet of paid exhibit space in the past two shows. Separate U.S. and international.
(11) Specify the total number of professional attendees at the past two shows (separate U.S. and international). Also include the number of countries represented at past two shows. Do *not* include exhibitor attendance in these figures.

(12) Are the above show statistics independently audited by a third party?
(13) State any admission fees for show visitors (exhibit only) and indicate if there are or will be reduced or waived fees for international attendees or for international attendees of U.S. Embassy delegations (See MOU, e).
(14) Give a description of any technical program offered and the cost to attend (if applicable).
(15) State product categories to be displayed.
(16) State the audience profile of potential international customers (target countries, industries, profession or technical level).
(17) Describe marketing efforts made to promote event overseas for prior show and proposed marketing plan for event for which application is being made (e.g., use of overseas trade associations, publications, travel agents, etc.) Program should describe how it will increase individual and group international attendee attendance. Program may include, for example, competitive travel packages, plant tours, or international receptions. Waived or reduced admission fees for international attendees to the exhibition or conference is provided under question #13. Waived or reduced admission fees are required for international attendees who are members of Embassy delegations.
(18) Submit two (2) sets of all show promotional literature, including show catalog, for previous show.

Applicant must type the following and submit with the appropriate signature:

"The above information is correct and the applicant will abide by the terms set forth in this Notice of Call for Applications for the FY95 FBP (October 1, 1994, through September 30, 1995)."

A trade show will not be considered for the FBP unless a completed application has been received. Applications will be processed by the Cooperative Events Division, Office of Export Marketing Programs, Export Promotion Services, and final selection of events will be made approximately 75 days after publication of this **Federal Register** notice.

Successful applicants will be required to enter into a Memorandum of Understanding (MOU) that sets forth the specific actions to be performed by the show organizer and the DOC. The MOU constitutes a cooperative agreement between the DOC and the show organizer specifying services to be rendered by DOC as part of the FBP and responsibilities assumed by the show organizer. The services to be rendered by DOC will be carried out by the U.S. and Foreign Commercial Service (US&FCS) unless otherwise indicated.

A contribution of $4,000 for shows of 5 days or less in duration is required. For shows over five days in duration a fee of $6,000 is required. Fees are for shows selected and promoted during the October 1, 1994, through September 30, 1995, period. ITA has determined that this action is not a major rule within the meaning of section 1(b) of Executive Order 12291. Therefore, a Regulatory Impact Analysis has not nor will be prepared. Because a notice of proposed rulemaking and an opportunity for public comment is not required for this agency action relating to practice and procedure under the Administrative Procedure Act (5 U.S.C. 553) or any other statute, no initial or final Regulatory Flexibility Analysis has to be or will be prepared. This notice does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

Ann H. Watts,

Director, Cooperative Events Division, Office of Export Marketing Programs, Export Promotion Services, U.S. and Foreign Commercial Service, International Trade Administration, U.S. Department of Commerce.

[FR Doc. 93–12304 Filed 5–24–93; 8:45 am]

BILLING CODE 3510–FP–U

Federal Register

Tuesday
May 25, 1993

Part IV

Department of Transportation

Coast Guard

33 CFR Part 161

Vessel Traffic Service New York Area; Notice of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 161

[CGD 92–052]

RIN 2115–AE36

Vessel Traffic Service New York Area

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to expand the boundaries of Vessel Traffic Service New York (VTSNY). This expansion would provide the Vessel Traffic Center (VTC) with a more complete vessel traffic image for the entrances to New York Harbor via Ambrose Channel, Raritan Bay, and Long Island Sound. The expansion would also furnish additional information on weather conditions and other potential hazards to navigation. As a result, the VTSNY area expansion would assist in safer and more efficient vessel transits in the congested New York Harbor channels and reduce the potential for groundings, rammings, and collisions.

DATES: Comments must be received on or before July 9, 1993.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G–LRA/3406) (CGD 92–052), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, or may be delivered to room 3406 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters.

FOR FURTHER INFORMATION CONTACT: Irene Hoffman, Project Manager, Vessel Traffic Services Division. The telephone number is 202–267–6277.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD 92–052) and the specific section of this proposal to which each comment applies, and give the reason for each comment. The Coast Guard requests that all comments and attachments be submitted in an unbound format suitable for copying and electronic filing. If not practical, a second copy of any bound material is requested. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Marine Safety Council at the address under **ADDRESSES:** The request should include reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register.**

Drafting Information

The principal persons involved in drafting this document are Irene Hoffman, Project Manager, Vessel Traffic Services Division and Nicholas Grasselli, Project Counsel, Office of Chief Counsel.

Background and Purpose

On August 27, 1990, the Coast Guard published in the **Federal Register** (55 FR 34908), a final rule which established mandatory vessel participation in VTSNY. This final rule which became effective on February 15, 1991 (56 FR 1737, Jan. 17, 1991). The rule stated that any further proposal expanding VTSNY areas would be published in a separate notice of proposed rulemaking. Presently, the Coast Guard believes that the VTSNY should be expanded and is proposing to do so in this rule.

VTSNY was reestablished in response to heightened public concern for vessel traffic safety in New York Harbor. The existing regulations require compliance with reporting and participation procedures for certain vessels which are entering into and operating within the VTSNY area. The VTS's surveillance system and radiotelephone network are the primary means of collecting and providing this information.

The Ports and Waterways Safety Act (33 U.S.C. 1221 *et seq.*) as amended by the Port Safety and Tank Vessel Safety Act of 1978 and the Oil Pollution Act of 1990, provides authority for the Secretary of the Department of Transportation to construct, operate, maintain, improve or expand vessel traffic services. The Secretary has redelegated this authority to the Commandant, U.S. Coast Guard.

The expansion of VTSNY would furnish additional advance information on weather conditions, traffic congestion, and other potential hazards to navigation. This information would be relayed in a timely manner to vessels operating in the area, permitting them to respond to conditions as necessary.

Discussion of Proposed Amendments

At present, the VTSNY area (33 CFR 161.580) is bounded by the Verrazano-Narrows Bridge to the south, the Brooklyn Bridge and Holland Tunnel to the east and north, Kill Van Kull to the Arthur Kill (AK) Railroad Bridge, and Newark Bay to the Lehigh Valley Draw Bridge. This rulemaking would amend 33 CFR 161.580, expanding the present VTSNY boundary described in the following phases.

The Coast Guard is proposing to expand VTSNY's required participation boundary in three phases. After publication of this NPRM, the Coast Guard intends to issue two interim final rules and a final rule. The rules would expand the VTS boundaries incrementally. Implementing the expansion plan in three separate rules will provide "user familiarization" periods for the final two phases, allowing both the VTS operators and users to gradually become familiar with the new service area before participation became mandatory. During these "user familiarization" periods, the VTC will be prepared to provide VTS services and vessels will be encouraged to participate voluntarily in using the VTS services in the expanded areas.

The first interim final rule would implement Phase I by expanding the VTSNY's required participation area from the existing boundary at the Verrazano-Narrows Bridge south to the entrance buoys at Ambrose, Sandy Hook and Swash Channels in Lower New York Bay, and west into Raritan Bay terminating at a line from Great Kills Light on Staten Island to Point Comfort in New Jersey. This rule would be published in the Summer of 1993. Until then, participation in the Lower New York Bay and Raritan Bay area would remain voluntary. The Coast Guard is not proposing a "user familiarization" period for Phase I, since vessels are presently voluntarily intereacting with the VTC in this expanded area.

Phase I would extend, in part, VTSNY's operating area beyond the navigable waters of the United States. Although the area in which participation is mandatory would remain limited to the navigable waters of the United States, prospective users would be encouraged to voluntarily participate while outside the area to

facilitate advance traffic management within the VTSNY area.

The second interim final rule would implement Phase II by expanding the VTS to encompass the Arthur Kill, south from the existing boundary at the AK Railroad Bridge to the line in Raritan Bay, described above in the Phase I description. The Raritan River above the Raritan River Railroad Bridge is not included within the VTSNY area. Phase II's interim final rule would be published in the Spring of 1994.

A final rule would adopt Phases I and II as final and implement Phase III by expanding the VTS from the existing boundary at the Brooklyn Bridge up the East River to the Throgs Neck Bridge. Phase III's final rule would be published in the Fall of 1994. The regulatory text proposed in this NPRM describes VTSNY in its final geographic form.

Regulatory Evaluation

This proposal is not major under Executive Order 12291 and not significant under the "Department of Transportation Regulatory Policies and Procedures" (44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this proposal to be so minimal that a Regulatory Evaluation is unnecessary. Most vessels that would be affected by this rule are already required to participate in VTSNY. The expansion of the VTS area would only require these vessels to communicate with the VTC earlier than presently required. In some cases, vessels are already voluntarily participating in the expanded areas being proposed. The Coast Guard believes that this proposal would not impose a significant impact on these vessels.

Small Entities

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

As discussed in the preamble, the expansion of the VTS area would only require certain vessels to communicate with the VTC earlier than presently required. Because the requirement to communicate with the VTC sooner than presently required is expected to have little impact on all vessels that would be affected by this rule, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities.

Collection of Information

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

Federalism

The Coast Guard has analyzed this proposal under the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. VTS operating procedures are a matter for which regulations should be developed on the national level, to avoid unreasonably burdensome variances and confusion in applicability and operating requirements. These regulations would provide uniform VTSNY operating requirements in an expanded VTSNY area and would preempt States from adopting similar requirements.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that under section 2.B.2 of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation. This proposal which is primarily administrative, would require the Master, Pilot or person directing the movement of the vessel to participate in an expanded VTSNY. No significant effect on the environment is expected. While the Coast Guard also recognizes that this rulemaking may have a positive effect on the environment by minimizing the risk of environmental harm resulting from collisions and groundings of vessels in the VTSNY area, the impact is not expected to be significant enough to warrant further documentation. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under "ADDRESSES".

List of Subjects in 33 CFR Part 161

Harbors, Reporting and recordkeeping requirements, Navigation (water), Vessels, Waterways.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 161 as follows:

PART 161—VESSEL TRAFFIC MANAGEMENT

1. The authority citation for part 161 continues to read as follows:

Authority: 33 U.S.C. 1231; 49 CFR 1.46.

2. Section 161.580 is revised to read as follows:

§ 161.580 VTSNY area.

The VTS New York area consists of the navigable waters of the United States, bounded to the east by a line drawn from Norton Point to Breezy Point, then south to the entrance buoys at Ambrose, Sandy Hook and Swash Channels, and then west into the Raritan Bay. The Raritan River above the Raritan River Railroad Bridge is not included within the VTSNY area. VTSNY also encompasses areas to the west, including the Arthur Kill, Kill Van Kull and Neward Bay north to the Lehigh Valley Draw Bridge, and north to a line drawn east-west from the Holland Tunnel ventilator shaft at latitude 40°43.7′ N; longitude 74°01.6′ W in the Hudson River and east through the East River to the Throgs Neck Bridge, excluding the Harlem River.

Note: Although mandatory participation in VTSNY is limited to area within the navigable waters of the United States, VTSNY will provide services beyond those waters. Prospective users are encouraged to report beyond the area of required participation in order to facilitate advance vessel traffic management in the VTS area and to receive VTSNY advisories and/or assistance.

Dated: May 19, 1993.

W.J. Ecker,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 93–12341 Filed 5–24–93; 8:45 am]

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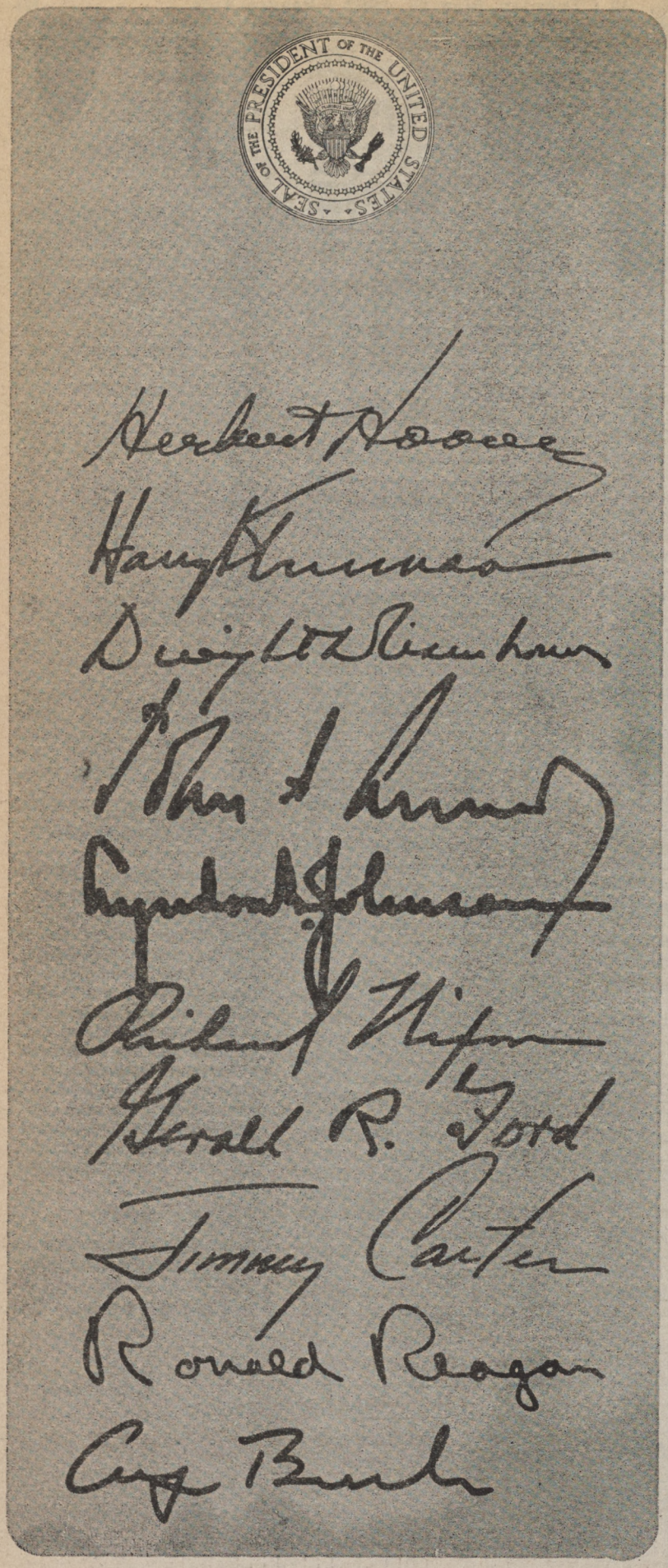
H.R. 2/P.L. 103–31

National Voter Registration Act of 1993 (May 20, 1993; 107 Stat. 77; 13 pages)

Last List May 12, 1993



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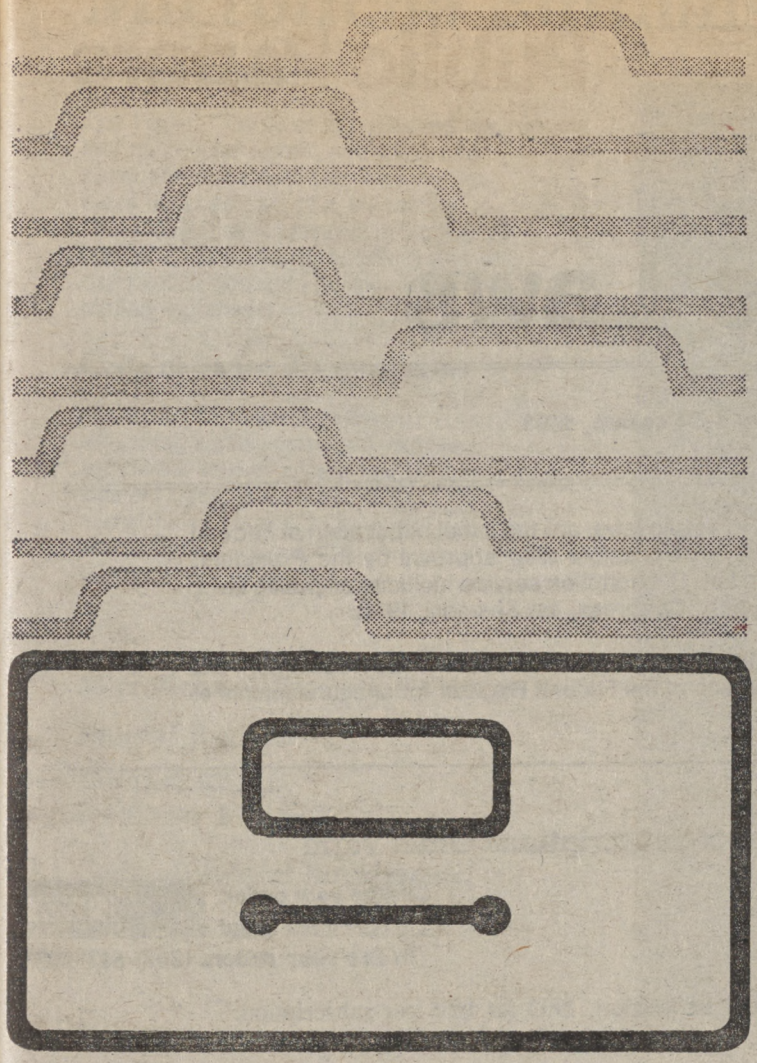

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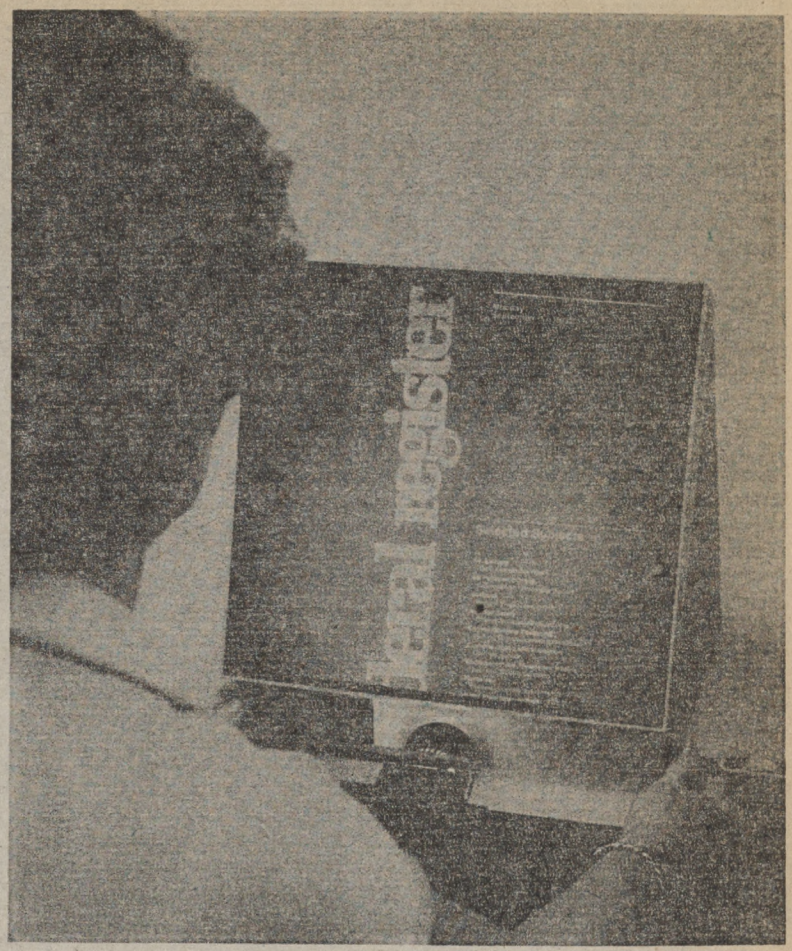

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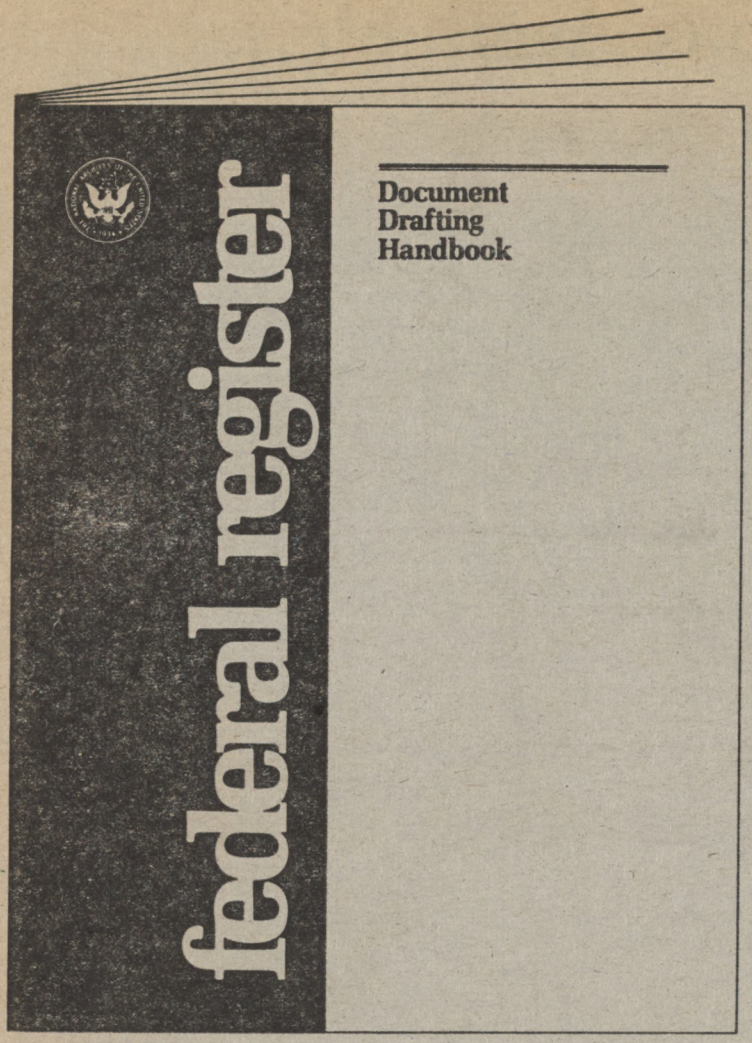

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