1–8–96
Vol. 61 No. 5
Pages 511–612

federal register

Monday
January 8, 1996

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

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

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

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

The Federal Register is published in paper, 24x microfiche and as an online database through *GPO Access*, a service of the U.S. Government Printing Office. The online database is updated by 6 a.m. each day the Federal Register is published. The database includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward. Free public access is available on a Wide Area Information Server (WAIS) through the Internet and via asynchronous dial-in. Internet users can access the database by using the World Wide Web; the Superintendent of Documents home page address is http://www.access.gpo.gov/su__docs/, by using local WAIS client software, or by telnet to swais.access.gpo.gov, then login as guest, (no password required). Dial-in users should use communications software and modem to call (202) 512–1661; type swais, then login as guest (no password required). For general information about *GPO Access*, contact the *GPO Access* User Support Team by sending Internet e-mail to help@eids05.eids gpo.gov; by faxing to (202) 512–1262; or by calling (202) 512–1530 between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except for Federal holidays.

The annual subscription price for the Federal Register paper edition is $494, or $544 for a combined Federal Register, Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the Federal Register including the Federal Register Index and LSA is $433. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $8.00 for each issue, or $8.00 for each group of pages as actually bound; or $1.50 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA or MasterCard. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

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

How To Cite This Publication: Use the volume number and the page number. Example: 61 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC	
Subscriptions:	
Paper or fiche	202–512–1800
Assistance with public subscriptions	512–1806
General online information	202–512–1530
Single copies/back copies:	
Paper or fiche	512–1800
Assistance with public single copies	512–1803
FEDERAL AGENCIES	
Subscriptions:	
Paper or fiche	523–5243
Assistance with Federal agency subscriptions	523–5243

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

THE FEDERAL REGISTER

WHAT IT IS AND HOW TO USE IT

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

WHO: Sponsored by 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 Sessions]

WHEN: January 9, 1996 at 9:00 am and January 23, 1996 at 9:00 am

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

RESERVATIONS: 202–523–4538

Printed on recycled paper containing 100% post consumer waste

Contents

Federal Register

Vol. 61, No. 5

Monday, January 8, 1996

Separate Parts In This Issue

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

New Feature in the Reader Aids!
Beginning with the issue of December 4, 1995, a new listing will appear each day in the Reader Aids section of the Federal Register called ‘‘Reminders’’. The Reminders will have two sections: ‘‘Rules Going Into Effect Today’’ and ‘‘Comments Due Next Week’’. Rules Going Into Effect Today will remind readers about Rules documents published in the past which go into effect ‘‘today’’. Comments Due Next Week will remind readers about impending closing dates for comments on Proposed Rules documents published in past issues. Only those documents published in the Rules and Proposed Rules sections of the Federal Register will be eligible for inclusion in the Reminders.
The Reminders feature is intended as a reader aid only. Neither inclusion nor exclusion in the listing has any legal significance.
The Office of the Federal Register has been compiling data for the Reminders since the issue of November 1, 1995. No documents published prior to November 1, 1995 will be listed in Reminders.

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

CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register

Vol. 61, No. 5

Monday, January 8, 1996

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–260–AD; Amendment 39–9480; AD 96–01–04]

Airworthiness Directives; Saab Model SAAB SF340A and SAAB 340B Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Saab Model SAAB SF340A and SAAB 340B series airplanes. This action requires revising the Airplane Flight Manual (AFM) to require verification that the auto-ignition system is operational; to define icing conditions at higher ambient temperatures; and to provide the flight crew with limitations and procedures to aid in the avoidance of engine power interruptions. This amendment is prompted by a report of complete power loss of the left engine and power fluctuations on the right engine as a result of build up of ice and/or slush in the engine inlet and subsequent ingestion into the engines; the auto-ignition system of the left engine had failed, which prevented automatic restart of the engine following power interruption. The actions specified in this AD are intended to prevent failure of the auto-ignition system to re-light the engine in the event of power interruptions due to the ingestion of ice and/or slush into the engine, which could result in engine flameout and subsequent shutdown, and to provide the flight crew with guidance to aid in avoidance of such occurrences.

DATES: Effective January 23, 1996.

Comments for inclusion in the Rules Docket must be received on or before March 8, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–260–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The information concerning this amendment may be obtained from or examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Ruth E. Harder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–1721; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION: The FAA has received a report indicating that an unsafe condition may exist on certain Saab Model SAAB SF340A and SAAB 340B series airplanes. Recently, an incident occurred on a Model SAAB 340B series airplane during which, shortly after exiting icing conditions, the left engine of the airplane shut down abruptly and the right engine experienced multiple power interruptions.

Subsequent investigation revealed that shutdown of the left engine occurred due to ingestion of ice and/or slush into the engine from the inlet. In addition, the auto-ignition system had failed on that engine; therefore, engine re-light did not occur. Failure of the auto-ignition system, which is a component of the engine Digital Electronic Controller (DEC), was the result of a broken fuse. This fuse failure also caused the engine turbine (or Np) overspeed protection system to be inoperative.

The interruptions of power to the right engine also were caused by ingestion of ice and/or slush into the engine; however, the auto-ignition system for the right engine was operational and engine re-light occurred. In addition, failure of the auto-ignition system can exist concurrently such that engine re-light does not occur. These conditions, if not corrected, could result in engine flameout and subsequent shutdown.

Although single event power interruptions have occurred previously on this airplane type, recent occurrences of multiple power interruptions demonstrate a need to increase the safety margin for flight in icing conditions. Activation of the engine anti-icing system at higher ambient temperatures will reduce the ice/slush build-up within the engine inlet and will improve the engine surge margin.

In light of the information discussed previously, the FAA finds that certain limitations and procedures should be included in the FAA-approved Airplane Flight Manual (AFM) to:

—provide the flight crew with procedures to verify that the auto-ignition system is operational;

—expand the current definition of icing conditions by increasing the temperature at which those conditions exist from +5 degrees Celsius to +10 degrees Celsius; and

—alert the flight crew to certain icing conditions during which power to an engine may be interrupted, and provide the flight crew with guidance to aid in avoidance of such occurrences.

The FAA has determined that such limitations and procedures currently are not defined adequately in the AFM for these airplanes.

This airplane model is manufactured in Sweden and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the Luftfartsverket (LFV), which is the airworthiness authority for Sweden, has kept the FAA informed of the situation described above. The FAA has examined the findings of the LFV, 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, this AD is being issued to prevent failure of the auto-ignition system to re-light the engine in the event of power interruptions due to the ingestion of ice and/or slush into the engine, which could result in engine flameout and subsequent shutdown; and to provide the flight crew with guidance to aid in avoidance of such occurrences.

This AD requires the following:

—revising the Limitations Section of the AFM to require verification that the auto-ignition system is operational;
—revising the Limitations Section of the AFM to define icing conditions at higher ambient temperatures;
—revising the Normal Procedures Section of the AFM to alert the flight crew to certain icing conditions during which power to an engine may be interrupted, and to provide the flight crew with limitations and procedures to aid in avoidance of interruptions of power to an engine.

For Model SAAB 340B series airplanes having an auto-ignition system that is found to be inoperative, this AD requires a test of the Np overspeed system to ensure that it is operative, and repair, if necessary.

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

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

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–NM–260–AD.'' The postcard will be date stamped and returned to the commenter.

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

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 USC 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

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

96–01–04 SAAB Aircraft AB: Amendment 39–9480. Docket 95–NM–260–AD.

Applicability: Model SAAB SF340A series airplanes, serial numbers 004 through 159 inclusive; and Model SAAB 340B series airplanes, serial numbers 160 and subsequent; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the auto-ignition system to re-light the engine in the event of power interruptions due to the ingestion of ice and/or slush into the engine, which could result in engine flameout and subsequent shutdown; and to provide the flight crew with guidance to aid in avoidance of such occurrences; accomplish the following:

(a) Within 10 days after the effective date of this AD, revise the FAA-approved Airplane Flight Manual (AFM) to include the text contained in paragraphs (a)(1), (a)(2), (a)(3), and (a)(4) of this AD, as applicable. This may be accomplished by inserting a copy of this AD into the AFM.

(1) For Model SAAB SF340A series airplanes: Insert the following sub-section in the Limitations Section of the AFM:

''IGNITION SYSTEM

Prior to each flight, before engine start, perform a check of the auto-ignition system.

- Select batteries ON (external power ON or OFF).
- Check that IGN switches are in NORM position.
- Advance PLs above FLT IDLE and verify the IGN lights in the Flight Status Panel (FSP) illuminate. In bright sunlight, shade FSP to ensure IGN lights are visible when illuminated.
- Retard PLs to GND IDLE. (IGN lights should go out.)
- If an IGN light fails to illuminate when PLs are above FLT IDLE, the auto-ignition system is considered to be inoperative.

If the auto-ignition system is inoperative:

- BEFORE ENTERING ICING CONDITIONS, SET IGNITION TO CONT. Maintain ignition in CONT until touchdown, even if icing conditions cease to exist.''

(2) For Model SAAB 340B series airplanes: Insert the following sub-section in the Limitations Section of the AFM:

''IGNITION SYSTEM

After each engine shutdown, perform a check of the auto-ignition system.

- Adjust Ng to approximately 75%–77%; minimum is 75%.
- Shut down the engines (CL to FUEL OFF).
- Verify the IGN lights in the Flight Status Panel (FSP) illuminate while Ng is above 62%. In bright sunlight, shade the FSP to ensure that lights are visible when illuminated.
- If an IGN light fails to illuminate, the auto-ignition system is considered to be inoperative.
- Retard PLs to GND IDLE.

If the auto-ignition system is inoperative:

- BEFORE ENTERING ICING CONDITIONS, SET IGNITION TO CONT. Maintain ignition in CONT until touchdown, even if icing conditions cease to exist.''

(3) For all airplanes: Insert the following in the Limitations Section of the AFM, under Icing Conditions:

''Icing conditions exist when visible moisture in any form is present (such as clouds, fog with visibility of one mile or less, rain, snow, sleet, ice crystals) or standing water, slush, or snow (hard packed snow excluded) is present on the ramps, taxiways, or runways and the OAT or SAT is +10 degrees C and below during ground and flight operation.''

(4) For all airplanes: Insert the following in the Normal Procedures Section of the AFM, under Operation in Icing Conditions:

''CAUTION

Engine power interruptions may occur at ISA to ISA +20 degrees Celsius temperature and in light (or undetected) icing conditions, or shortly after exiting these conditions. Engine function will normally be recovered by the auto-ignition system before any serious loss of power. To aid in avoidance of these occurrences:

- Engine anti-ice systems must be activated prior to entering icing conditions, and maintained ON for at least 5 minutes after exiting icing conditions.''

(b) For Model SAAB 340B series airplanes: If an auto-ignition system is found to be inoperative, prior to further flight, perform an Np overspeed test to ensure that the Np overspeed system is operative, in accordance with the procedures specified in General Electric Maintenance Manual SEI–576. If the Np overspeed system is found to be inoperative, prior to further flight, repair in accordance with the procedures specified in General Electric Maintenance Manual SEI–576.

(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 2: 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 sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) This amendment becomes effective on January 23, 1996.

Issued in Renton, Washington, on January 2, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–188 Filed 1–5–96; 8:45 am]

BILLING CODE 4910–13–U

---

14 CFR Part 71

[Airspace Docket No. 95–AWP–35]

Amendment of Class E Airspace; Globe, AZ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class E airspace area at Globe, AZ. The development of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 27 has made this action necessary. The intended effect of this action is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Globe-San Carlos Regional Air Facility Airport, Globe, AZ.

EFFECTIVE DATE: 0901 UTC February 29, 1996.

FOR FURTHER INFORMATION CONTACT: Scott Speer, Airspace Specialist, System Management Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California, 90261, telephone (310) 725–6533.

SUPPLEMENTARY INFORMATION:

History

On November 1, 1995, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by amending the Class E airspace area at Globe, AZ (60 FR 55502). This action would provide adequate controlled airspace to accommodate a GPS SIAP to RWY 27 at Globe-San Carlos Regional Air Facility Airport, Globe, AZ.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated be referenced in 14 CFR 71.1. The E airspace designations listed in this document will be published subsequently in this Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) amends the Class E airspace area at Globe, AZ. The development of a GPS SIAP to RWY 27 has made this action necessary. The intended effect of this action is to provide adequate airspace for aircraft executing the GPS RWY 27 SIAP at Globe-San Carlos Regional Air Facility Airport, Globe, AZ.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 10034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective

September 16, 1995, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AWP NV E5 Globe, AZ [Revised]

Globe-San Carlos Regional Air Facility Airport, AZ
(lat. 33°21′10″ N, long. 110°39′51″

That airspace extending upward from 700 feet above the surface within an 5-mile radius of the Globe-San Carlos Regional Air Facility Airport. That airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 33°26′00″ N, long. 110°36′00″W; to lat. 33°24′00″ N, long. 110°09′00″ W; to lat. 33°09′00″ N, long. 110°09′00″ N; to lat. 33°12′00″ N, long. 110°36′00″ W, thence to the point of beginning.

* * * * *

Issued in Los Angeles, California, on December 14, 1995.

Richard R. Lien,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 96–219 Filed 1–5–96; 8:45 am]

BILLING CODE 4910–13–M

---

14 CFR Part 71

[Airspace Docket No. 95–AWP–36]

Amendment of Class E Airspace; Page, AZ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class E airspace area at Page, AZ. The development of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 15 has made this action necessary. The intended effect of this action is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Page Municipal Airport, Page, AZ.

EFFECTIVE DATE: 0901 UTC February 29, 1996.

FOR FURTHER INFORMATION CONTACT: Scott Speer, Airspace Specialist, System Management Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California, 90261, telephone (310) 725–6533.

SUPPLEMENTARY INFORMATION:

History

On November 3, 1995, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by amending the Class E airspace area at Page, AZ (60 FR 55813). This action would provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Page Municipal Airport, Page, AZ.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1 The Class E airspace designations listed in this document will be published subsequently in this Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) amends the Class E airspace area at Page, AZ. The intended effect of this action is to provide adequate airspace for aircraft executing the GPS RWY 15 SIAP at Page Municipal Airport, Page, AZ.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) Is not a ‘‘significant regulatory action’’ under Executive Order 12866; (2) is not a ‘‘significant rule’’ under DOT Regulatory Policies and Procedures (44 FR 10034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AWP AZ E5 Page AZ [Revised]

Page Municipal Airport, AZ
(Lat. 36°55′34″ N, long. 111°26′54″ W)
Page VOR/DME
(Lat. 36°55′41″ N, long. 111°27′02″ W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Page Municipal Airport, and within 3 miles either side of the Page VOR 340° radial, extending from the 6.5-mile radius to the 10 miles northwest of the Page VOR/DME. That airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 36°56′49″ N, long. 111°18′57″ W; to lat. 36°35′00″ N, long. 111°09′30″ W; to lat. 36°35′00″ N, long 111°30′00″ N; to lat. 36°41′00″ N, long. 111°32′00″ W; to lat. 36°44′43″ N, long. 111°35′20″ W; to lat. 37°09′11″ N, long. 111°46′30″ W; to lat. 37°10′49″ N, long. 111°40′55″ W; to lat. 37°22′00″ N, long. 111°46′00″ W; to lat. 37°26′00″ N, long. 111°35′00″ W; to lat. 37°19′30″ N, long. 111°20′30″ W; to lat. 37°10′22″ N, long. 111°25′04″ W; to lat. 36°58′37″ N, long. 111°19′45″ W, thence to the point of beginning.

* * * * *

Issued in Los Angeles, California, on December 14, 1995.

Richard R. Lien,

Manager, Air Traffic Division, Western-Pacific Region.

FR Doc. 96–220 Filed 1–5–96; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 558

Animal Drugs, Feeds, and Related Products; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for new animal drug applications (NADA’s) from Whitmoyer Laboratories, Inc., to A. L. Pharma, Inc.

EFFECTIVE DATE: January 8, 1996.

FOR FURTHER INFORMATION CONTACT: Thomas J. McKay, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0213.

SUPPLEMENTARY INFORMATION: Whitmoyer Laboratories, Inc., 19 North Railroad St., Myerstown, PA 17067, has informed FDA that it has transferred the ownership of, and all rights and interests in, approved NADA's 10–285 (Carbarsone), 39–646 (Carbarsone + Bacitracin Methylene Disalicylate) and 38–879 (Carbarsone + Zoalene) to A. L. Pharma, Inc., One Executive Dr., Fort Lee, NJ 07024. Accordingly, the agency is amending 21 CFR 510.600(c)(1) and (c)(2) to remove the sponsor name Whitmoyer Laboratories, Inc., because the firm no longer is the holder of any approved NADA's. The agency is also amending 21 CFR 558.55, 558.95, and 558.120 to reflect the transfer of ownership.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510 and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 512, 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e).

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in the table in paragraph (c)(1) by removing the entry for ''Whitmoyer Laboratories,'' and in the table in paragraph (c)(2) by removing the entry for ''011794''.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

3. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

§ 558.55 [Amended]

4. Section 558.55 *Amprolium* is amended in the table in paragraph (d)(2), under the entry (iv), appearing under the heading ''Limitations'' at the ''Carbarsone 227 to 340.5'' entry, by removing ''011794'' and adding in its place ''046573''.

§ 558.95 [Amended]

5. Section 558.95 *Bambermycins* is amended in paragraph (b)(3)(iv)(*b*) by removing ''011794'' and adding in its place ''046573''.

§ 558.120 [Amended]

6. Section 558.120 *Carbarsone (not U.S.P.)* is amended in paragraphs (a)(1) and (a)(2) by removing ''011794'' and adding in its place ''046573''.

Dated: December 22, 1995.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 96–230 Filed 1–5–96; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 20, 23, 24, 25, 27, 33, 38, 301, and 602

[TD 8655]

Removal of Final and Temporary Regulations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Removal of final and temporary regulations.

SUMMARY: This document removes final and temporary regulations as part of the President's Regulatory Reinvention Initiative.

EFFECTIVE DATE: January 8, 1996.

FOR FURTHER INFORMATION CONTACT: Philip Bennet, (202) 622–3926.

SUPPLEMENTARY INFORMATION:

Background

As part of the President's Regulatory Reinvention Initiative, the Treasury Department and the IRS identified obsolete regulations that relate to prior law, provide elections for prior years, or are otherwise outdated due to changes in the underlying statutory provisions.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Parts 20, 23, and 24

Estate taxes, Reporting and recordkeeping requirements.

26 CFR Part 25

Gift taxes, Reporting and recordkeeping requirements.

26 CFR Part 27

Estate taxes, Gift taxes, Reporting and recordkeeping requirements.

26 CFR Parts 33 and 38

Employment taxes, Reporting and recordkeeping requirements.

26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, under the authority of 26 U.S.C. 7805, 26 CFR parts 1, 20, 23, 24, 25, 27, 33, 38, 301, and 602 are amended as follows:

PART 1—INCOME TAXES

Paragraph 1. Part 1 is amended as follows:

1. The authority citation for part 1 is amended by removing the entry for § 1.1303–1.

§ 1.32–1 [Removed]

2. Section 1.32–1 is removed.

§ 1.103–12 [Removed]

3. Section 1.103–12 is removed.

§ 1.110–1 [Removed]

4. Section 1.110–1 is removed.

§ 1.114–1 [Removed]

5. Section 1.114–1 is removed.

§ 1.115–1 [Removed]

6. Section 1.115–1 is removed.

§ 1.116–1 [Removed]

7. Section 1.116–1 is removed.

§ 1.116–2 [Removed]

8. Section 1.116–2 is removed.

§ 1.367(a)–7T [Removed]

9–10. Section 1.367(a)-7T is removed.

11. The undesignated center heading preceding § 1.383–1A is removed.

§ 1.383–1A [Removed]

12. Section 1.383–1A is removed.

§ 1.383–2A [Removed]

13. Section 1.383–2A is removed.

§ 1.383–3A [Removed]

14–15. Section 1.383–3A is removed.

§ 1.804–1 [Removed]

16. Section 1.804–1 is removed.

§ 1.804–2 [Removed]

17–18. Section 1.804–2 is removed.

§ 1.805–1 [Removed]

19. Section 1.805–1 is removed.

§ 1.805–2 [Removed]

20. Section 1.805–2 is removed.

§ 1.805–3 [Removed]

21. Section 1.805–3 is removed.

§ 1.805–4 [Removed]

22. Section 1.805–4 is removed.

§ 1.805–5 [Removed]

23. Section 1.805–5 is removed.

§ 1.805–6 [Removed]

24. Section 1.805–6 is removed.

§ 1.805–7 [Removed]

25–26. Section 1.805–7 is removed.

§ 1.805–8 [Removed]

27. Section 1.805–8 is removed.

§ 1.820–1 [Removed]

28. Section 1.820–1 is removed.

§ 1.820–2 [Removed]

29. Section 1.820–2 is removed.

§ 1.820–3 [Removed]

30. Section 1.820–3 is removed.

§ 1.824–1 [Removed]

31. Section 1.824–1 is removed.

§ 1.824–2 [Removed]

32. Section 1.824–2 is removed.

§ 1.824–3 [Removed]

33. Section 1.824–3 is removed.

34. Section 1.907–0 is amended as follows:

a. The introductory text is revised to read as follows:

§ 1.907–0 Outline of regulation provisions for section 907.

This section lists the paragraphs contained in §§ 1.907(a)–0 through 1.907(f)–1.

* * * * *

b. The undesignated center heading preceding the entry for § 1.907(a)–0 is removed and the entry for § 1.907(e)–1 is removed.

c. The undesignated center heading preceding the entry for § 1.907(a)–0A is removed.

§ 1.907(a)–0A [Removed]

d. The entry for § 1.907(a)–0A is removed.

§ 1.907(a)–1A [Removed]

e. The entry for § 1.907(a)–1A is removed.

§ 1.907(b)–1A [Removed]

f. The entry for § 1.907(b)–1A is removed.

§ 1.907(b)–2A [Removed]

g. The entry for § 1.907(b)–2A is removed.

§ 1.907(c)–1A [Removed]

h. The entry for § 1.907(c)–1A is removed.

§ 1.907(c)–2A [Removed]

i. The entry for § 1.907(c)–2A is removed.

§ 1.907(c)–3A [Removed]

j. The entry for § 1.907(c)–3A is removed.

§ 1.907(d)–1A [Removed]

k. The entry for § 1.907(d)–1A is removed.

§ 1.907(e)–1A [Removed]

l. The entry for § 1.907(e)–1A is removed.

§ 1.907(f)–1A [Removed]

m. The entry for § 1.907(f)–1A is removed.

§ 1.907(e)–1 [Removed]

35. Section 1.907(e)–1 is removed.

36. The undesignated center heading preceding § 1.907(a)–0A is removed.

§ 1.907(a)–0A [Removed]

37. Section 1.907(a)–0A is removed.

§ 1.907(a)–1A [Removed]

38. Section 1.907(a)–1A is removed.

§ 1.907(b)–1A [Removed]

39. Section 1.907(b)–1A is removed.

§ 1.907(b)–2A [Removed]

40. Section 1.907(b)–2A is removed.

§ 1.907(c)–1A [Removed]

41. Section 1.907(c)–1A is removed.

§ 1.907(c)–2A [Removed]

42. Section 1.907(c)–2A is removed.

§ 1.907(c)–3A [Removed]

43. Section 1.907(c)–3A is removed.

§ 1.907(d)–1A [Removed]

44. Section 1.907(d)–1A is removed.

§ 1.907(e)–1A [Removed]

45. Section 1.907(e)–1A is removed.

§ 1.907(f)–1A [Removed]

46. Section 1.907(f)–1A is removed.

§ 1.995–7 [Removed]

47. Section 1.995–7 is removed.

49. The undesignated center heading ''INCOME AVERAGING'' preceding § 1.1301–0 is removed.

§ 1.1301–0 [Removed]

50. Section 1.1301–0 is removed.

§ 1.1301–1 [Removed]

51. Section 1.1301–1 is removed.

§ 1.1302–1 [Removed]

52. Section 1.1302–1 is removed.

§ 1.1302–2 [Removed]

53. Section 1.1302–2 is removed.

§ 1.1302–3 [Removed]

54. Section 1.1302–3 is removed.

§ 1.1303–1 [Removed]

55–56. Section 1.1303–1 is removed.

§ 1.1304–1 [Removed]

57. Section 1.1304–1 is removed.

§ 1.1304–2 [Removed]

58. Section 1.1304–2 is removed.

§ 1.1304–3 [Removed]

59. Section 1.1304–3 is removed.

§ 1.1304–4 [Removed]

60. Section 1.1304–4 is removed.

§ 1.1304–5 [Removed]

61. Section 1.1304–5 is removed.

§ 1.1304–6 [Removed]

62. Section 1.1304–6 is removed.

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

§ 20.2035–1 [Removed]

Par. 2. Section 20.2035–1 is removed.

PART 23—[REMOVED]

Par. 3. Part 23 is removed.

PART 24—[REMOVED]

Par. 4. Part 24 is removed.

PART 25—GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954

§ 25.2517–1 [Removed]

Par. 5. Section 25.2517–1 is removed.

PART 27—[REMOVED]

Par. 6. Part 27 is removed.

PART 33—[REMOVED]

Par. 7. Part 33 is removed.

PART 38—[REMOVED]

Par. 8. Part 38 is removed.

PART 301—PROCEDURE AND ADMINISTRATION

Par. 9. Part 301 is amended as follows:

§ 301.6676–1 [Removed]

1. Section 301.6676–1 is removed.

§ 301.7424–1 [Removed]

2. Section 301.7424–1 is removed.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 10. In § 602.101, paragraph (c) is amended by removing the following entries from the table:

§ 602.101 OMB Control numbers.

* * * * *

(c) * * *

CFR part or section where identified and described	Current OMB control No.
* * * * *	
1.820–2	1545–0128
* * * * *	
1.824–1	1545–1027
1.824–3	1545–1027
* * * * *	
1.1304–1	1545–0074
1.1304–3	1545–0074
1.1304–5	1545–0074
* * * * *	
20.2035–1	1545–0015
* * * * *	
27.642–1	1545–0020
* * * * *	
38.6302–1	1545–0257
* * * * *	

Margaret Milner Richardson,
Commissioner of Internal Revenue.
Approved: December 18, 1995.
Leslie Samuels,
Assistant Secretary of the Treasury.
[FR Doc. 96–164 Filed 1–5–96; 8:45 am]
BILLING CODE 4830–01–U

26 CFR Parts 1 and 602

[TD 8653]

RIN 1545–AS75

Hedging Transactions by Members of a Consolidated Group

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the character and timing of gain or loss from certain hedging transactions entered into by members of a consolidated group. These regulations apply when one member of the group hedges its own risk, hedges the risk of another member, or enters into a risk-shifting transaction with another member. The regulations are needed to provide appropriate rules for these transactions. The regulations provide guidance for corporations that are members of consolidated groups.

DATES: These regulations are effective February 7, 1996.

For dates of applicability of these regulations, see § 1.446–4(e)(9)(iv) and § 1.1221–2(g) (4), (5), and (6).

FOR FURTHER INFORMATION CONTACT: Jo Lynn Ricks of the Office of the Assistant Chief Counsel (Financial Institutions and Products), telephone (202) 622–3920 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in these final regulations have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545–1480. Some responses to these collections of information are mandatory, and others are required to obtain the benefit of the separate-entity election or of applying single-entity treatment in taxable years prior to the general effective date of the regulations.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

The estimated annual burden per respondent or recordkeeper varies from 1.0 to 40.0 hours, depending on individual circumstances, with an estimated average of 5 hours.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, T:FP, Washington, DC 20224, and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Books or records relating to this collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

On July 18, 1994, the IRS published in the Federal Register (59 FR 36394) a notice of proposed rulemaking (FI–34–94) relating to the character and timing of gain or loss from certain risk-shifting transactions entered into by members of a consolidated group. Comments were received on the proposed regulations, and a public hearing was held on October 18, 1994. Most commentators believe that the proposed regulations provide a sensible and flexible set of rules to deal with hedging operations by the members of a consolidated group of corporations.

The most significant comment on the regulations relates to their effective date. Almost all of the commentators requested a transition rule permitting consolidated groups to elect to apply the proposed character rules retroactively. The final regulations adopt this suggestion, generally allowing consolidated groups to elect to apply the single-entity approach of the proposed regulations to all open years. Section 1.1221–2, concerning the character of hedging transactions, was made retroactive for all open years to permit the IRS to resolve fairly and consistently controversies involving transactions that were entered into prior to the publication date of those regulations. It is appropriate that these regulations, as an integral part of § 1.1221–2, also apply retroactively. To prevent any adverse consequences, however, retroactivity is elective.

The proposed regulations, with new effective date provisions, are adopted as final regulations. The new provisions, and several comments that were not adopted, are discussed below.

Explanation of Provisions

Character Regulations

The final regulations retain the single-entity approach of the proposed regulations. That is, they treat the risk of one member of the group as the risk of the other members, as if all the members were divisions of a single corporation. Thus, a member of a consolidated group that hedges the risk of another member by entering into a transaction with a third party may receive ordinary gain or loss treatment on that transaction if the transaction otherwise qualifies as a hedging transaction.

Under this single-entity approach, intercompany transactions are neither hedging transactions nor hedged items. Because they are treated as transactions between divisions of a single corporation, intercompany transactions do not reduce the risk of that single corporation and, therefore, fail to qualify as hedging transactions.

Some commentators requested that the IRS extend the single-entity approach to apply the hedging rules to a taxpayer's transactions that hedge the risk of a related party that is not a member of the taxpayer's consolidated group. The IRS and Treasury, however, do not believe that this approach is appropriate where the parties file different tax returns. Accordingly, the final regulations do not adopt this suggestion.

The final regulations also retain the separate-entity election of the proposed regulations, permitting a consolidated group to treat its members as separate entities when applying the hedging rules. The election is made by attaching a statement to the group's federal income tax return.

For a group that elects separate-entity treatment, an intercompany transaction is treated as a hedging transaction if and only if: (1) it would qualify as a hedging transaction if entered into with an unrelated party; and (2) it is entered into with a member that, under its method of accounting, marks its position in the intercompany transaction to market. If these requirements are satisfied, the member with respect to which it is an intercompany hedging transaction must account for its position in the transaction under § 1.446–4, and, if that member properly identifies the transaction as a hedging transaction, each member treats the gain or loss from its position in the transaction as ordinary.

In response to comments, the final regulations clarify that, even when these two requirements are met, these regulations supplant only the character and timing rules of § 1.1502–13. Other aspects of the transaction, such as the source of the gain or loss, are unaffected by these regulations and thus may be governed by § 1.1502–13.

As noted above, commentators pointed out that taxpayers frequently enter into transactions to transfer their business risk to related parties that do not qualify as members of a consolidated group. Some commentators argued that, even if risk reduction in these circumstances is not analyzed using a single-entity perspective, the relationship between the parties to the risk transfer justifies a rule under which the party receiving the risk has ordinary gain or loss on its position in the transaction. That is, they wanted to apply one part of the separate-entity rules to taxpayers that are not part of the same consolidated group.

The IRS and Treasury, however, do not believe that additional, special character rules are appropriate for risk-shifting transactions outside the context of a consolidated group. Accordingly, the final regulations do not adopt these comments.

The final regulations expand upon the effective date provision of the proposed regulations. The final regulations generally apply to transactions entered into on or after March 8, 1996.

In response to comments, the final regulations permit a consolidated group to apply the single-entity approach of the regulations retroactively. The group may elect to begin to apply the single-entity approach for all transactions entered into in any taxable year (the election year) beginning prior to March 8, 1996. The election may be made, however, only if the election year and each subsequent taxable year are still open for assessment under section 6501 on July 1, 1996, or such earlier date as the Commissioner may allow. Once made, the single-entity election applies to all transactions entered into in the election year and in all subsequent consolidated return years until the date as of which the group makes a separate-entity election. The Service will publish guidance on the manner, and the time, for making the single-entity election.

Further, the regulations also permit a consolidated group to apply the separate-entity approach to all transactions entered into in taxable years subject to the election. The taxpayer may choose, as the first year under the election, any taxable year beginning on or after July 12, 1995. This ability to apply the election to taxable years beginning before March 8, 1996 allows a consolidated group to apply the separate-entity approach to all intercompany transactions that are subject to new § 1.1502–13 (which is effective for taxable years beginning on or after July 12, 1995). Thus, by electing separate-entity treatment for all transactions entered into in a taxable year beginning on or after July 12, 1995, a consolidated group can determine the character and timing of its intercompany hedging transactions under § 1.446–4 and § 1.1221–2, rather than under § 1.1502–13.

If the group makes the single-entity election or elects to apply the separate-entity approach retroactively, special identification rules apply.

First, the members of the group are required to identify transactions that were entered into prior to March 8, 1996, that are still in existence on that date, and that become hedging transactions as a result of one of these elections. The members are also required to identify the hedged item for these transactions.

Second, the final regulations extend the time period for making the additional identifications that are referred to in the preceding paragraph.

Third, if the taxpayer's consolidated group has elected the single-entity approach, the regulations nullify all hedge identifications under § 1.1221–2(e)(i) that had been made for intercompany transactions. In this situation, the regulations determine the character of each intercompany transaction as if it had never been identified as a hedging transaction. Thus, the character and timing of the intercompany transaction are determined under the otherwise applicable regulations, and the transaction is not subject to the ordinary-gain, capital-loss rule that generally applies to transactions that are incorrectly identified as hedging transactions. The identification may, however, serve to identify the hedged item.

In order to ensure that consolidated groups do not improperly use hindsight in making these identifications, the regulations provide a consistency requirement. Under this requirement, the group members must treat similar or identical transactions consistently within the same year and from year to year. If a member of the consolidated group fails to identify a hedging transaction as a hedging transaction, but has identified similar or identical hedging transactions in the same or a subsequent year, then, for purposes of § 1.1221–2(f)(2)(iii), the member entering into the transaction is treated as having no reasonable grounds for treating the transaction as other than a hedging transaction. Thus, the member is generally subject to the ordinary-gain, capital-loss rules for taxpayers who fail to identify transactions as hedging transactions.

Timing regulations

The final regulations clarify the general rule that was provided in the proposed regulations for the timing of the gain or loss from hedging transactions that are entered into by members of a consolidated group. Under the final regulations, a member of a consolidated group must account for its hedging transactions as if all the members were separate divisions of a single corporation (the single-entity approach). Thus, the timing of the income, deduction, gain, or loss on the hedging transaction must match the timing of the income, deduction, gain, or loss from the item, items, or aggregate risk being hedged. These regulations make clear that a member must account for all of its hedging transactions, not just those that hedge the risk of another member, under the single-entity approach.

Since all of the members are treated as divisions of a single corporation, intercompany transactions are neither hedging transactions nor hedged items. Thus, under the single-entity approach, the timing of the gain or loss from intercompany transactions is not determined under the rules of § 1.446–4.

The final regulations also clarify the rule in the proposed regulations on accounting for the gain or loss on hedging transactions by members of a group that has made a separate-entity election. If a group makes the separate-entity election, the members do not account for their hedging transactions (including their intercompany hedging transactions) as if they were divisions of a single corporation. Rather, each member accounts for its hedging transactions on a member-by-member basis. For example, if an intercompany transaction is treated as a hedging transaction, the gain or loss on the transaction is accounted for under the rules of § 1.446–4 rather than under the timing rules of the intercompany transaction regulations, § 1.1503–13. As was stated above, even when a separate-entity election is in place, §§ 1.1221–2 and 1.446–4 affect only the timing and character of intercompany hedging transactions. Other aspects of the intercompany hedging transaction remain subject to the rules of § 1.1502–13.

These final timing regulations are effective for transactions entered into on or after March 8, 1996.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It is hereby certified that these regulations do not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that these regulations will primarily affect affiliated groups of corporations that have elected to file consolidated returns, which tend to be larger businesses. The regulations do not significantly alter the reporting or recordkeeping duties of small entities. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Jo Lynn Ricks, Office of Assistant Chief Counsel (Financial Institutions and Products), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by removing the entry for § 1.1221–2 and by adding entries in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * *
Section 1.446–4 also issued under 26 U.S.C. 1502. * * *
Section 1.1221–2 also issued under 26 U.S.C. 1502 and 6001. * * *

Par. 2. Section 1.446–4 is amended by adding the text of paragraph (e)(9) to read as follows:

§ 1.446–4 Hedging transactions.

* * * * *

(e) * * *

(9) *Hedging by members of a consolidated group—(i) General rule: single-entity approach.* In general, a member of a consolidated group must account for its hedging transactions as if all of the members were separate divisions of a single corporation. Thus, the timing of the income, deduction, gain, or loss on a hedging transaction must match the timing of income, deduction, gain, or loss from the item or items being hedged. Because all of the members are treated as if they were divisions of a single corporation, intercompany transactions are neither hedging transactions nor hedged items for these purposes.

(ii) *Separate-entity election.* If a consolidated group makes an election under § 1.1221–2(d)(2), then paragraph (e)(9)(i) of this section does not apply. Thus, in that case, each member of the consolidated group must account for its hedging transactions in a manner that meets the requirements of paragraph (b) of this section. For example, the income, deduction, gain, or loss from intercompany hedging transactions (as defined in § 1.1221–2(d)(2)(ii)) is taken into account under the timing rules of § 1.446–4 rather than under the timing rules of § 1.1502–13.

(iii) *Definitions.* For definitions of consolidated group, divisions of a single corporation, intercompany transaction, and member, see section 1502 and the regulations thereunder.

(iv) *Effective date.* This paragraph (e)(9) applies to transactions entered into on or after March 8, 1996.

Par. 3. Section 1.1221–2 is amended by adding the text of paragraphs (d), (e)(5), (f)(3), and (g)(4), and by adding the text and headings of paragraphs (g) (5) and (6) to read as follows:

§ 1.1221–2 Hedging transactions.

* * * * *

(d) *Hedging by members of a consolidated group*—(1) *General rule: single-entity approach.* For purposes of this section, the risk of one member of a consolidated group is treated as the risk of the other members as if all of the members of the group were divisions of a single corporation. For example, if any member of a consolidated group hedges the risk of another member of the group by entering into a transaction with a third party, that transaction may potentially qualify as a hedging transaction. Conversely, intercompany transactions are not hedging transactions because, when considered as transactions between divisions of a single corporation, they do not reduce the risk of that single corporation.

(2) *Separate-entity election.* In lieu of the single-entity approach specified in paragraph (d)(1) of this section, a consolidated group may elect separate-entity treatment of its hedging transactions. If a group makes this separate-entity election, the following rules apply.

(i) *Risk of one member not risk of other members.* Notwithstanding paragraph (d)(1) of this section, the risk of one member is not treated as the risk of other members.

(ii) *Intercompany transactions.* An intercompany transaction is a hedging transaction (an intercompany hedging transaction) with respect to a member of a consolidated group if and only if it meets the following requirements—

(A) The position of the member in the intercompany transaction would qualify as a hedging transaction with respect to the member (taking into account paragraph (d)(2)(i) of this section) if the member had entered into the transaction with an unrelated party; and

(B) The position of the other member (the marking member) in the transaction is marked to market under the marking member's method of accounting.

(iii) *Treatment of intercompany hedging transactions.* An intercompany hedging transaction (that is, a transaction that meets the requirements of paragraphs (d)(2)(ii) (A) and (B) of this section) is subject to the following rules—

(A) The character and timing rules of § 1.1502–13 do not apply to the income, deduction, gain, or loss from the intercompany hedging transaction; and

(B) Except as provided in paragraph (f)(3) of this section, the character of the marking member's gain or loss from the transaction is ordinary.

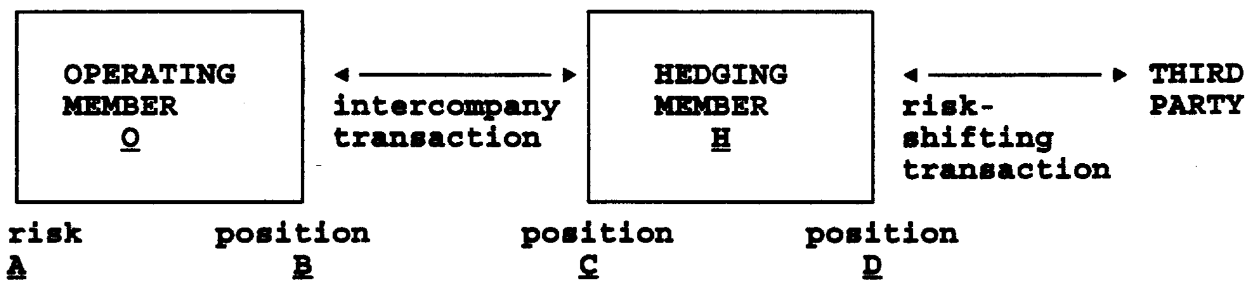
(iv) *Making and revoking the election.* Unless the Commissioner otherwise prescribes, the election described in this paragraph (d)(2) must be made in a separate statement saying ''[Insert Name and Employer Identification Number of Common Parent] HEREBY ELECTS THE APPLICATION OF SECTION 1.1221–2(d)(2) (THE SEPARATE-ENTITY APPROACH).'' The statement must also indicate the date as of which the election is to be effective. The election must be signed by the common parent and filed with the group's federal income tax return for the taxable year that includes the first date for which the election is to apply. The election applies to all transactions entered into on or after the date so indicated.

(3) *Definitions.* For definitions of consolidated group, divisions of a single corporation, group, intercompany transactions, and member, see section 1502 and the regulations thereunder.

(4) *Examples.* The following examples illustrate this paragraph (d):

General Facts. In these examples, *O* and *H* are members of the same consolidated group. *O*'s business operations give rise to interest rate risk ''*A*,'' which *O* wishes to hedge. *O* enters into an intercompany transaction with *H* that transfers the risk to *H*. *O*'s position in the intercompany transaction is ''*B*,'' and *H*'s position in the transaction is ''*C*.'' *H* enters into position ''*D*'' with a third party to reduce the interest rate risk it has with respect to its position *C*. *D* would be a hedging transaction with respect to risk *A* if *O*'s risk *A* were *H*'s risk.

BILLING CODE 4830–01–U



BILLING CODE 4830–01–C

Example 1. Single-entity treatment—(i) *General rule.* Under paragraph (d)(1) of this section, *O*'s risk *A* is treated as *H*'s risk, and therefore *D* is a hedging transaction with respect to risk *A*. Thus, the character of *D* is determined under the rules of this section, and the income, deduction, gain, or loss from *D* must be accounted for under a method of accounting that satisfies § 1.446–4. The intercompany transaction *B–C* is not a hedging transaction and is taken into account under § 1.1502–13.

(ii) *Identification. D* must be identified as a hedging transaction under paragraph (e)(1) of this section, and *A* must be identified as the hedged item under paragraph (e)(2) of this section. Under paragraph (e)(5) of this section, the identification of *A* as the hedged item can be accomplished by identifying the positions in the intercompany transaction as hedges or hedged items, as appropriate. Thus, substantially contemporaneous with entering into *D, H* may identify *C* as the hedged item and *O* may identify *B* as a hedge and *A* as the hedged item.

Example 2. Separate-entity election; counterparty that does not mark to market. In addition to the *General Facts* stated above, assume that the group makes a separate-entity election under paragraph (d)(2) of this section. If *H* does not mark *C* to market under its method of accounting, then *B* is not a hedging transaction, and the *B–C* intercompany transaction is taken into account under the rules of section 1502. *D* is not a hedging transaction with respect to *A*, but *D* may be a hedging transaction with respect to *C* if *C* is ordinary property or an ordinary obligation and if the other requirements of paragraph (b) of this section are met. If *D* is not part of a hedging transaction, then *D* may be part of a straddle for purposes of section 1092.

Example 3. Separate-entity election; counterparty that marks to market. The facts are the same as in *Example 2* above, except that *H* marks *C* to market under its method of accounting. Also assume that *B* would be a hedging transaction with respect to risk *A* if *O* had entered into that transaction with an unrelated party. Thus, for *O*, the *B–C* transaction is an intercompany hedging transaction with respect to *O*'s risk *A*, the character and timing rules of § 1.1502–13 do not apply to the *B–C* transaction, and *H*'s income, deduction, gain, or loss from *C* is ordinary. However, other attributes of the items from the *B–C* transaction are determined under § 1.1502–13. *D* is a hedging transaction with respect to *C* if it meets the requirements of paragraph (b) of this section.

(e) * * *

(5) *Identification of hedges involving members of a consolidated group*—(i) *General rule: single-entity approach.* A member of a consolidated group must satisfy the requirements of this paragraph (e) as if all of the members of the group were divisions of a single corporation. Thus, the member entering into the hedging transaction with a third party must identify the hedging transaction under paragraph (e)(1) of this section. Under paragraph (e)(2) of this section, that member must also identify the item, items, or aggregate risk that is being hedged, even if the item, items, or aggregate risk relates primarily or entirely to other members of the group. If the members of a group use intercompany transactions to transfer risk within the group, the requirements of paragraph (e)(2) of this section may be met by identifying the intercompany transactions, and the risks hedged by the intercompany transactions, as hedges or hedged items, as appropriate. Because identification of the intercompany transaction as a hedge serves solely to identify the hedged item, the identification is timely if made within the period required by paragraph (e)(2) of this section. For example, if a member transfers risk in an intercompany transaction, it may identify under the rules of this paragraph (e) both its position in that transaction and the item, items, or aggregate risk being hedged. The member that hedges the risk outside the group may identify under the rules of this paragraph (e) both its position with the third party and its position in the intercompany transaction. Paragraph (d)(4) *Example 1* of this section illustrates this identification.

(ii) *Rule for consolidated groups making the separate-entity election.* If a consolidated group makes the separate-entity election under paragraph (d)(2) of this section, each member of the group must satisfy the requirements of this paragraph (e) as though it were not a member of a consolidated group.

* * * * *

(f) * * *

(3) *Transactions by members of a consolidated group*—(i) *Single-entity approach.* If a consolidated group is under the general rule of paragraph (d)(1) of this section (the single-entity approach), the rules of this paragraph (f) apply only to transactions that are not intercompany transactions.

(ii) *Separate-entity election.* If a consolidated group has made the election under paragraph (d)(2) of this section, then, in addition to the rules of paragraphs (f) (1) and (2) of this section, the following rules apply.

(A) If an intercompany transaction is identified as a hedging transaction but does not meet the requirements of paragraphs (d)(2)(ii) (A) and (B) of this section, then, notwithstanding any contrary provision in § 1.1502–13, each party to the transaction is subject to the rules of paragraph (f)(1) of this section with respect to the transaction as though it had incorrectly identified its position in the transaction as a hedging transaction.

(B) If a transaction meets the requirements of paragraphs (d)(2)(ii) (A) and (B) of this section but the transaction is not identified as a hedging transaction, each party to the transaction is subject to the rules of paragraph (f)(2) of this section. (Because the transaction is an intercompany hedging transaction, the character and timing rules of § 1.1502–13 do not apply. See paragraph (d)(2)(iii)(A) of this section.)

(g) * * *

(4) *Effective date and transition rules for hedges by members of a consolidated group.* Paragraphs (d), (e)(5), and (f)(3) of this section apply to transactions entered into on or after March 8, 1996.

(5) *Elections to accelerate the effective date of the regulations*—(i) *Election to apply the single-entity approach retroactively.* A consolidated group may elect to begin to apply paragraphs (d)(1) and (3), (e)(5)(i), and (f)(3)(i) of this section to all transactions entered into in any taxable year (the election year) beginning prior to March 8, 1996. This election must be made in the manner, and at the time, prescribed by the Commissioner. A group may make the election only if the election year, and each subsequent taxable year, are still open for assessment under section 6501 on July 1, 1996 (or such earlier date as the Commissioner may allow). The election applies to all transactions entered into in the election year and in all subsequent consolidated return years until the date, if any, as of which the group makes a separate-entity election under paragraph (d)(2) of this section. The rules of paragraph (g)(6) of this section apply to all transactions that were entered into before March 8, 1996 in taxable years subject to an election under this paragraph (g)(5)(i). The election may be revoked only with the consent of the Commissioner.

(ii) *Ability to apply the separate-entity approach retroactively.* Notwithstanding paragraph (g)(4) of this section, the separate-entity election described in paragraph (d)(2) of this section may be made for any taxable year beginning on or after July 12, 1995. If that election is made for a taxable year beginning before March 8, 1996, then paragraphs (d)(2) and (3), (e)(5)(ii), and (f)(3)(ii) of this section apply to all transactions entered into on or after the beginning of that taxable year and while the election is in effect, and the rules of paragraph (g)(6) of this section (other than paragraph (g)(6)(i)) apply to all transactions that were entered into on or after the first day of the first year for which the election is made and before March 8, 1996.

(6) *Transitional identification rules.* To allow a consolidated group to conform to paragraphs (g)(5)(i) and (ii) of this section, this paragraph (g)(6) nullifies certain hedge identifications and permits a member of a consolidated group to add certain hedge identifications. This paragraph (g)(6) applies only to the extent provided in paragraph (g)(5) of this section.

(i) *Intercompany transactions previously identified.* Notwithstanding paragraph (f)(1)(i) of this section, if, for purposes of paragraph (e)(1) of this section, a member identified as a hedging transaction an intercompany transaction (or a transaction that would qualify as an intercompany transaction under § 1.1502–13(b)(1) if the taxable year in which the transaction was entered into were described in § 1.1502–13(*l*)), the character of the gain on the intercompany transaction is determined as if it had not been identified as a hedging transaction. The identification may, however, serve to identify the hedged item under paragraph (e)(5)(i) of this section.

(ii) *Additional identifications of hedging transactions.* A member of a consolidated group must identify under paragraph (e)(5) of this section a transaction that—

(A) Was entered into before March 8, 1996,

(B) When entered into was not a hedging transaction (as defined in paragraph (b) of this section),

(C) Solely as a result of the group's election under paragraph (g)(5)(i) or (ii) of this section, is a hedging transaction (as defined in paragraph (b) of this section), and

(D) Remains in existence on March 8, 1996.

(iii) *Additional identification of hedged items.* In the case of transactions described in paragraph (g)(6)(ii) of this section, the hedging member must identify under paragraph (e)(5) of this section the item, items, or aggregate risk being hedged.

(iv) *Consistency requirement for hedge identifications.* In identifying transactions as hedging transactions under paragraph (g)(6)(ii) of this section, all of the members of the group must treat similar or identical transactions consistently within the same year and from year to year. If paragraph (g)(6)(ii) of this section requires a member to identify a transaction, and the member fails to identify a transaction as a hedging transaction, but it or another member of the group identifies similar or identical hedging transactions in the same or a subsequent year, then for purposes of paragraphs (f)(2)(iii) and (3) of this section, the member entering into the transaction is treated as having no reasonable grounds for treating the transaction as other than a hedging transaction.

(v) *Extension of time for making additional identifications.* If an identification of a hedging transaction would not be required but for the rules of paragraph (g)(6)(ii) of this section, the identification is timely for purposes of paragraph (e)(1) of this section if made before the close of business on May 7, 1996. If an identification of a hedged item would not be required but for the rules of paragraph (g)(6)(iii) of this section, it is timely for purposes of paragraph (e)(2) of this section if made before the close of business on the later of May 7, 1996 or the last day of the period specified in paragraph (e)(2)(ii) of this section.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 4. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 5. In § 602.101, paragraph (c) is amended by adding entries in numerical order to the table to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(c) * * *

CFR part or section where identified and described	Current OMB control number
* * *	* *
1.1221–2(d)(2)(iv)	1545–1480
1.1221–2(e)(5)	1545–1480
1.1221–2(g)(5)(ii)	1545–1480
1.1221–2(g)(6)(ii)	1545–1480
1.1221–2(g)(6)(iii)	1545–1480
* * *	* *

Margaret Milner Richardson,
Commissioner of Internal Revenue.

Approved: December 20, 1995.

Cynthia G. Beerbower,
Deputy Assistant Secretary of the Treasury.

[FR Doc. 96–178 Filed 1–5–96; 8:45 am]

BILLING CODE 4830–01–U

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 4

[T.D. ATF–370; Ref. Notice Nos. 749, 581]

RIN 1512–AA67

Grape Variety Names for American Wines

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is issuing a final rule containing a list of approved prime grape variety names which may be used as the designation for American wines. This rule contains two other lists of alternative names which may be used as grape wine designations until January 1, 1997, or January 1, 1999. This rule also contains a procedure by which interested persons may petition the Director for the addition of names to the list of prime grape names.

ATF believes the listing of approved names of grape varieties for American wines will help standardize wine label terminology and prevent consumer confusion by reducing the large number of synonyms for grape varieties currently used for labeling American wines.

DATES: This final rule is effective February 7, 1996. Alternative names listed at § 4.92(a) may be used as designations for American wines bottled prior to January 1, 1997. Alternative names listed at § 4.92(b) may be used as designations for American wines bottled prior to January 1, 1999.

FOR FURTHER INFORMATION CONTACT: Charles N. Bacon, Wine, Beer, and Spirits Regulations Branch, Bureau of Alcohol, Tobacco and Forearms, 650 Massachusetts Avenue, NW, Washington, DC 20226; Telephone (202) 927–8230.

SUPPLEMENTARY INFORMATION:

Background

The Federal Alcohol Administration Act

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), vests broad authority in the Director, as a delegate of the Secretary of the Treasury, to prescribe regulations intended to prevent deception of the consumer, and to provide the consumer with adequate information as to the identity and quality of the product. Regulations which implement the provisions of section 105(e) as they relate to wine are set forth in title 27, Code of Federal Regulations, Part 4 (27 CFR part 4).

Wine Varietal Labeling

Under § 4.34(a), still grape wine may be designated by labeling the wine with the predominant grape(s) from which the wine is produced. Since 1983, labeling rules at § 4.23a have provided for the use of a grape variety name as the type designation of the wine if not less than 75 percent of the wine is derived from the labeled grape variety (less in the case of wine made from certain *Vitis labrusca* grapes), and if the wine is labeled with an appellation of origin. Wine may also be labeled with the names of two or more grape varieties if all of the grapes used to make the wine are of the labeled varieties, and the percentage of wine derived from each variety is shown on the label.

In recent years, ATF has noted a trend among domestic and foreign wineries to label wines using a grape variety designation. Increasing use of hundreds of grape variety names and synonyms prompted ATF to examine the correctness of using these names in order to insure that grape variety names used are truthful, accurate, and not misleading.

Winegrape Varietal Names Advisory Committee

In 1982, ATF established the Winegrape Varietal names Advisory Committee (''Committee'') to conduct an examination of the hundreds of grape variety names and synonyms in use [47 FR 13623, March 31, 1982]. According to its charter, the Committee was to advise the Director of the grape varieties and subvarieties which are used in the production of wine, to recommend appropriate label designations for these varieties, and to recommend guidelines for approval of names suggested for new grape varieties. Their recommendations were restricted to grape names used in the production of American wines. The Committee's final report, presented to the Director in September 1984, contained their findings regarding use of the most appropriate names for domestic winegrapes varieties. ATF announced that the Committee's report was available to the public in Notice No. 548 [49 FR 44049], published on November 1, 1984.

Notice No. 581

On the basis of the recommendations contained in the Committee's final report, ATF issued Notice No. 581 on February 4, 1986 [51 FR 4392]. This notice proposed the addition of Subpart J, American Grape Variety Names, to Part 4. Within this subpart, § 4.91 contained the list of prime grape names which the Committee had found to be the most appropriate names for grape varieties. Sections 4.92 and 4.93 contained alternative names which could be used in conjunction with the prime name (§ 4.92), or for five years, in lieu of the prime name (§ 4.93). Section 4.94 contained guidelines for adding new grape variety names to the list of prime names.

In addition to the recommendations included in the Committee report, Notice No. 581 contained other proposals. One was to prohibit the modification of grape variety names with color or style descriptive terms or with proprietary names. This notice also proposed to make obsolete certain IRS and ATF rulings relating to grape wine designations. The comment period for Notice No. 581 was extended until July 7, 1986, by the publication of Notice No. 589, April 8, 1986 [51 FR 11944].

Written Comments

ATF received 156 comments from 146 different respondents prior to the end of the comment period on July 7, 1986. Comments were received from: 76 consumers; the American Wine Society; 38 American wineries; the Wine Institute; the Association of American Vintners; the Washington Wine Institute; six grape growers; the California Farm Bureau Federation; the California Association of Winegrape Growers; the North Carolina Grape Growers Association; the Oregon Winegrowers Association; two United

States Congressmen; the Embassy of France; the Embassy of the Federal Republic of Germany; four foreign wine producing or exporting companies or associations; the publication *Wine East*; a wine writer; four persons involved in academic research or classification of wine; and four members of the Winegrape Varietal Names Advisory Committee.

Eleven respondents commented generally in favor of Notice No. 581, and the proposal to establish a list of wine grape variety names for domestic use. Conversely, a large number of respondents opposed the concept of establishing a list of grape varieties, while many objected to specific proposals such as the elimination of certain varietal names, and the proposal to prohibit use of color or style descriptors in conjunction with grape variety names. Because of the general opposition to the proposals made in Notice No. 581, ATF decided to reopen comment on the subject of grape variety names. At the same time, ATF modified certain proposals made in that notice.

Notice No. 749

Background

ATF issued Notice No. 749 on September 3, 1992 [57 FR 40380]. Although the comment period for this notice was to have closed on October 5, 1992, several respondents requested its extension. Notice No. 762, October 26, 1992 [57 FR 48487], reopened the comment period until December 28, 1992. The proposals in Notice No. 749 differed from those made in Notice No. 581 in the following respects.

One List of Alternative Names

ATF reduced the two lists of alternative grape variety names to a single list. This list proposed at § 4.92 contained grape names which would be phased out by January 1, 1997. A few alternative grape names listed in Notice No. 581 were proposed as prime grape names, or as synonyms for prime names.

Synonyms for Prime Names

The proposed list of prime names of grape varieties contained synonyms for some prime names. These synonyms, such as ''Fumé blanc'' (a synonym for Sauvignon blanc), would be acceptable designations for wine as long as they appeared in direct conjunction with an appellation of origin on a wine label.

Additional Grape Variety Names

ATF proposed additional grape names for inclusion on the list of prime names. These names represent newly developed varieties as well as some European *vinifera* grapes introduced into viticultural use in the United States since publication of the Committee report.

Changes to the List of Prime Names

ATF proposed certain changes to the list of prime names, through the deletion of names which are not the true names of grape varieties, and through the addition of certain grape names which were previously proposed as alternative names.

Approval of New Grape Names

ATF proposed minor changes to the method of approving new grape names, primarily to provide more flexibility for grape breeders in naming new varieties.

Gamay Beaujolais

No regulatory proposals were made for Gamay Beaujolais. ATF stated that Gamy Beaujolais would be the subject of future rulemaking. In the interim, domestic wineries and bottlers could continue to use Gamay Beaujolais on wine labels. ATF made proposals regarding the use of Gamay Beaujolais in Notice No. 793 [59 FR 15878, April 5, 1994].

Color and Style Descriptors

ATF eliminated the proposal to prohibit the use of descriptive or proprietary terms with grape variety names.

Type Designations of Varietal Significance

Notice No. 749 proposed a new type designation for American wines. These names would designate wines which have some varietal basis, but are not composed of a specified grape variety such as Muscatel which could be produced using any Muscat grapes.

Respondents to Notice No. 749

ATF received 55 written comments from 43 respondents. The following is a list of respondents, their general interest in the proposals in the notice, and, when appropriate, an abbreviation or acronym. For the purpose of brevity, these abbreviations or acronyms are used throughout this document to identify respondents. Following the list of respondents are organizations and terms which are also used in this document. Abbreviations and acronyms accompany these names as well.

1. H.P. Olmo, Professor Emeritus, University of California at Davis, and Committee member.
2. William F. Doering, a Committee member.
3. Carole P. Meredith, Associate Professor, Department of Viticulture and Ecology, University of California at Davis.
4. Bruce Reisch, Associate Professor, New York State Agricultural Experiment Station, Cornell University at Geneva.
5. R.P. Lane, Associate Professor, Georgia Agricultural Experiment Stations, University of Georgia at Griffin.
6. Delegation of the Commission of the European Communities (''EC'').
7. The Agricultural Counselor, Embassy of France, Washington, DC.
8. The Ambassador, Federal Republic of Germany, Washington, DC.
9. The Counselor for Economic and Commercial Affairs, the Embassy of Spain, Washington, DC.
10. Deutscher Weinfonds, a German quasi-governmental authority (''DW'').
11. Verband Deutscher Weinexporteure e.V., and Deutscher Weinbauverband e.V., trade associations representing exporters of German wine, and German wine growers.
12. Office International de la Vigne et du Vin, an international trade association for wine (''OIV'').
13. Union Interprofessionelle des Vins du Beaujolais.
14. Fédération des Exportateurs de Vins et Spiritueux de France, a French trade association (''FEVS'').
15. Institut National des Appellations d'Origine, a French organization concerned with recognition of controlled appellations of origin (''INAO'').
16. American Vintners Association, a trade association representing bonded wineries (''AVA'').
17. National Association of Beverage Importers, a trade association representing importers of alcoholic beverages (''NABI'').
18. Wine Institute, a trade association representing California wineries.
19. Washington Wine Commission, a trade association representing Washington wineries and winegrape growers.
20. Oregon Winegrower's Association, a trade association representing Oregon winegrape growers.
21. California Association of Winegrape Growers, a trade association representing California winegrape growers.
22. Richard Mansfield, Umpqua Valley Chapter, Oregon Winegrowers Association, a trade association.
23. The U.S. Small Business Administration, Washington, DC.
24. Chicago Wine School, Chicago, IL.
25. Raymond Kelly, a consumer, Alexandria, Virginia.
26. H. Sichel Söhne, Inc., a wine import company.
27. Eagle Ridge Winery, a California winery.
28. Lockwood, a California wine producer.
29. Mt. Palomar Winery, a California winery.
30. Cain Cellars, a California winery.
31. Wine World Estates, owner of four California wineries.
32. Stimson Lane Wine & Spirits, Ltd., owner of wineries in Washington State and California (''Stimson Lane'').
33. Daniel Gehrs Wines, a California wine producer (''Gehrs'').
34. Millbrook Winery, a New York winery.
35. Robert Mondavi Winery, a California winery (''Mondavi'').

36. Long Vineyards, a California wine producer.
37. Martin Brothers Winery, a California winery.
38. Amity Vineyards, an Oregon winery.
39. Guenoc Winery, a California winery.
40. Brown-Forman Corporation, a wine and distilled spirits producer and importer (''Brown-Forman'').
41. Heublein Inc., a wine and distilled spirits producer and importer.
42. General Vineyard Services, a California winegrape grower.
43. San Lucas Vineyards, a California winegrape grower.

Organizations and References

A. Winegrape Varietal Names Advisory Committee (''Committee'').
B. Foundation Plant Materials Service (''FPMS''), a service of the University of California at Davis which lists registered grape selections. The November 1, 1993, California Grape Register is used as reference.
C. A Practical Ampelography, Grapevine Identification, by Pierre Galet, c. 1979, Cornell University Press (''Galet'').
D. Vines, Grapes and Wines, by Jancis Robinson, c. 1986, Alfred A. Knopf (''Robinson'').

General Comments to Notice No. 749

Sixteen respondents specifically stated their support for the proposals made in Notice No. 749. Other respondents commented on specific proposals by requesting changes to particular aspects of the proposals. No respondents generally opposed the proposed regulations.

NABI stated their support of ATF's intentions to prevent consumer confusion by reducing the number of synonyms for grape varieties currently used in labeling American wines. The EC likewise concurred with ATF's decision to standardize wine grape names and to eliminate incorrect or misnamed varieties. The Embassy of France expressed their support of ATF's objective to prevent confusion or misunderstanding for consumers by reducing the number of synonyms for grape variety names, and for requiring the accurate use of those names. NABI favored ATF's stated goal that grape variety names used by domestic wineries be truthful, accurate, and not misleading.

Wine Institute supported ATF's attempt to issue regulations which strike a balance between ampelography (the study and classification of grape vines), scientific terms, and consumer understanding. The Oregon Winegrower's Association stated they were supportive of ATF's approach to regulation of varietal names and acknowledged the problems of regulating such names for the first time. Stimson Lane cited ATF's concern for ampelographic accuracy and consumer awareness, while Mondavi stated their overall support of improving labeling terminology and preventing consumer deception and confusion.

Conclusion: Issuance of a Final Rule on Grape Variety Names

Based on the overall favorable comments to the proposals made in Notice 749, ATF is issuing these final regulations on grape variety names. These regulations are intended to provide specific and accurate labeling of grape wines labeled with grape variety names. They are intended to prevent consumer deception by eliminating misnamed grape variety names, and by eliminating the use of many synonyms for prime grape names. They are expected to aid in the identification of grape wines by consumers and to make labels easier to understand through the use of more meaningful labeling terms. Finally, ATF believes these regulations will enable consumers to be better informed about wines and the grape varieties used to produce them.

There are changes made in this final rule from the regulations proposed in Notice No. 749 and from those first proposed in Notice No. 581. The changes are a result of comments made by respondents over a lengthy period of time. These changes recognize certain marketing realities, and take into consideration past and present recognition of names used and known by consumers and industry. Following is a summary of the proposals, written comments, and changes made as a result of those comments.

Prime Names and Synonyms listed in § 4.91

General

Notice No. 749 contained a list of prime grape names and synonyms listed in alphabetical order in § 4.91. Either the prime name or a synonym listed could be used standing alone on a label as the designation for a wine. ATF received many comments concerning the listing of prime grape names in § 4.91. Comments requesting that new or additional names be added to the list are discussed under the ''New grape variety names'' section of the preamble. Comments addressing the use of synonyms for the prime names listed in § 4.91 are discussed below.

Melon/Muscadet

Three respondents requested that Muscadet be listed as a synonym for the prime name Melon. A fourth respondent requested that the full name ''Melon de Bourgogne'' be listed as the prime name for this grape variety.

Daniel Gehrs Wines commented that California has many acres of grapes historically identified as ''Pinot blanc.'' Wine made from these grapes has been marketed as Pinot blanc wine. Gehrs noted that wine produced from these grapes does not resemble wine made from Pinot blanc grapes; thus, this wine receives poor consumer recognition due to consumers' expectation of a white burgundy-type wine.

Recent ampelographic identification of these so-called Pinot blanc grapes has revealed them to be the variety Melon. In the interest of accurately identifying their wines, winemakers are now faced with the task of marketing wine made from these so-called Pinot blanc grapes as Melon wine. Gehrs, the Wine Institute, and General Vineyard Services objected to using the variety name Melon to label a grape wine. They noted that consumers are not familiar with the name Melon, and that consumers do not associate this term with a grape wine; rather consumers equate the word Melon with a fruit. These respondents requested that Muscadet be listed as a synonym for Melon. They stated that Melon is the grape of the Loire region used to produce Muscadet wines and that millions of cases of Melon wine are sold each year under the Muscadet designation. Thus, there would be better consumer understanding of wine made with Melon grapes if it were labeled Muscadet since consumers are familiar with the type of wine now labeled Muscadet. Gehrs stated that Muscadet used as a variety name would convey useful information to consumers about the style and taste of the wine while Melon would not.

Furthermore, Gehrs noted that California wineries must redesignate their existing ''Pinot blanc'' grapes, a process which will impose an economic burden on producers. By authorizing Muscadet as a synonym for Melon, it would be easier for them to phase out the name Pinot blanc and switch to Muscadet. The Wine Institute noted that Muscadet is unlike other similar-sounding designations such as Muscatel or Muscadine, that Muscadet does not resemble these wines, and that Muscadet is not likely to be sold under the same circumstances as these other wines. Thus, consumer confusion among these names would be minimal.

ATF finds that Galet uses the names Melon and Muscadet interchangeably in his *Practical Ampelography,* and that other ampelographic sources list them as synonyms. However, ATF can find no evidence of use of the name Muscadet to designate wine made from this grape in the United States. While its use might avoid some of the problems inherent with a wine designated Melon, historical past usage does not support the name Muscadet for domestic wines. Thus, ATF is not listing Muscadet as a synonym for Melon in § 4.91.

In their comment, Eagle Ridge Winery requested that the full name ''Melon de Bourgogne'' be listed as the prime name for this grape variety. ATF finds that Melon de Bourgogne is the actual name of this variety which reflects the origin of this grape in Burgundy. Although modern wine labeling seldom incorporates the full name of this grape, it is entirely accurate to use the full name. Furthermore, ATF believes that consumers are less likely to associate a wine labeled as Melon de Bourgogne with the fruit melon. Although this variety incorporates the geographic place name ''Bourgogne,'' the required use of an appellation of origin with a grape variety name would serve to dispel any erroneous impression about the true origin of the wine which might otherwise arise, provided the appellation of origin is in strict compliance with the requirements of § 4.34(b).

Thus, subject to the condition that the requirements of § 4.34(b) are strictly complied with, ATF is listing the name Melon de Bourgogne as the prime name for this grape variety in the list of prime names in § 4.91. Melon is listed as a synonym which may also be used for designating domestic wines.

Sauvignon Blanc/Fumé Blanc

Fumé blanc and Blanc Fumé were both proposed as synonyms for Sauvignon blanc in Notice No. 581. On the basis of written comments, ATF concluded that Fumé blanc was a valid synonym for Sauvignon blanc; however, there was no support expressed for the name Blanc Fumé. Comments also indicated that ''Fumé'' is a descriptive term meaning smoky, and is used to describe the smoky or ''flinty'' flavor of Sauvignon blanc wines produced in the Loire region and labeled with the French appellation of origin ''Blanc Fumé de Pouilly.''

Based on these comments, ATF proposed Fumé blanc (but not Blanc Fumé) as a synonym for the prime name Sauvignon blanc in Notice No. 749. ATF also noted that Fumé could be used as a descriptive term with any grape variety name.

Three respondents favored listing Fumé blanc as a synonym for Sauvignon blanc. Wine World Estates, Mondavi, and the AVA favored it because of the widespread use of Fumé blanc and its recognition by industry and consumers as a synonym for Sauvignon blanc. Based on these favorable comments, ATF is listing Fumé blanc as a synonym for the prime name Sauvignon blanc in § 4.91.

Each of these respondents requested that ATF prohibit the term ''Fumé'' from being used with any other grape variety name. The AVA stated that Fumé blanc has gained wide consumer acceptance, but that allowing ''Fumé'' to be used with other grape varieties would lead to unintended consumer confusion with Fumé blanc. They stated this action would hurt wineries that have invested time and money establishing consumer recognition for Fumé blanc. Mondavi concurred that permitting ''Fumé'' to be used with other grape varieties would lead to consumer confusion. They stated that Fumé blanc must be viewed as a whole, indivisible term meaning Sauvignon blanc. Mondavi cited its financial commitment in building the success of Fumé blanc wines, and stated that introduction of other varieties labeled with the term ''Fumé'' would destroy the level of consumer recognition of the name Fumé blanc and impose significant financial harm on Mondavi and other wineries.

ATF agrees in part. ''Fumé'' is a descriptive term which, through industry use and consumer acceptance of the product, has acquired a particular meaning. We agree that certain uses of the term Fumé have potential to be confusing to consumers. Specifically, we believe that use of the term ''Fumé'' in conjunction with another grape variety name containing the term ''blanc,'' or with another grape variety name to which the descriptive term ''blanc'' is being used, could be confusing to consumers and possibly misleading. Thus, ATF will not approve any certificates of label approval (COLA's) for a domestic wine (other than ''Fumé blanc'') which contain both the terms ''Fumé'' and ''blanc;'' e.g., COLA's will not be approved for a wine designated as ''Pinot blanc Fumé,'' ''Fumé Seyval blanc,'' and so forth.

However, ATF is not convinced that the use of ''Fumé'' in every other instance would be misleading or confusing; e.g., wine designated ''Fumé Chardonnay'' is unlikely to be confused with Sauvignon blanc or Fumé blanc. Thus, ATF will examine on a case by case basis any application for a COLA which contains a grape variety name and the term ''Fumé'' to see if the overall name is potentially misleading.

Zinfandel/Primitivo

Notice No. 749 proposed Zinfandel and Primitivo as separate grape varieties in § 4.91. Primitivo, an Italian grape, was added to the list of prime names at the request of Cypress Valley Winery, a Texas winery which requested the addition of ''Primitivo de Gioia'' to the list. ATF proposed Primitivo rather than a name incorporating one of the many clones or regional names for this grape in order not to introduce foreign place names as part of a grape variety name used in the United States.

Information available to ATF at the time Notice No. 749 was published indicated that Primitivo and Zinfandel were separate grape varieties rather than different names for the same grape although ATF sought additional information on this issue. Five respondents commented on the relationship between these two grape names.

Carol P. Meredith, of the Department of Viticulture and Enology at the University of California at Davis, commented that DNA examination of these two varieties showed them to have the identical ''fingerprint.'' This technique is currently being utilized as an aid in identifying grapes since each grape variety reveals a unique DNA ''fingerprint.'' She commented that UC Davis research on Primitivo is limited to two accessions of Primitivo grapes from Italy, and that these may not represent the full range of Primitivo cultivars. Furthermore, she commented that Primitivo may be a generic term which actually includes more than one grape cultivar in Italy; i.e., the Italian Primitivo may encompass grapes which are not identical to Zinfandel.

Eagle Ridge Winery and William F. Doering both commented that Primitivo and Zinfandel are the same variety but that Zinfandel is the name used for this grape in California for more than 150 years.

Wine World Estates and the California Association of Winegrape Growers commented that there is no conclusive evidence that Primitivo and Zinfandel are the same grape. Wine World Estates further stated that Primitivo is used in Europe to identify a number of grape varieties and thus, a grape called Primitivo may not be identical to Zinfandel. ATF notes that the FPMS lists Primitivo as a distinct grape variety and not as a synonym for Zinfandel.

ATF concludes that the comments support listing Primitivo and Zinfandel as separate grape varieties. Although it is possible that Zinfandel may be identical to some Primitivo grapes, it appears that the term Primitivo may represent other grape cultivars as well; consequently, the two terms cannot be used interchangeably. Thus, Primitivo and Zinfandel are listed as prime grape names in § 4.91 and are not listed as synonyms for each other.

Cabernet/Cabernet Sauvignon

ATF Ruling 74–25, 1974 ATF C.B. 48, permits the labeling of wine as ''Cabernet'' if 75 percent of its volume (51 percent prior to January 1, 1983) is derived from Cabernet Sauvignon grapes. This ruling was intended to prevent consumer deception through the use of less expensive grapes such as Ruby Cabernet in a wine labeled ''Cabernet.''

Notice No. 581 proposed to make this ruling obsolete which would preclude the labeling of Cabernet Sauvignon or any other wine as ''Cabernet.'' Notice No. 749 proposed listing ''Cabernet'' as a synonym for Cabernet Sauvignon.

Five respondents commented. World Wide Estates supported the proposal to permit ''Cabernet'' to be used as a synonym for Cabernet Sauvignon. The OIV noted that ''Cabernet'' does not correspond to the actual grape variety name, and the name ''Cabernet'' is not specific as to the actual grape variety it indicates.

Eagle Ridge Winery and Brown-Forman objected to listing ''Cabernet'' as a synonym. Eagle Ridge stated that other variety names contain the word Cabernet and it is incorrect to assume that the label term ''Cabernet'' by itself would not confuse consumers. Brown-Forman commented that permitting ''Cabernet'' to stand only for Cabernet Sauvignon is prejudicial to producers of other varieties such as Cabernet Franc or Cabernet Pfeiffer. They stated that there is absolutely no consumer confusion if each of the three Cabernet grapes is labeled with its full name.

Cain Cellars commented that ATF has permitted the term ''Cabernet'' to include Cabernet Franc, but offered no evidence of such use. They further suggested that this term should be permitted to refer to the entire family of Cabernet varieties including Cabernet Sauvignon, Cabernet Franc, Merlot, Malbec, and Petit Verdot. Accordingly, ''Cabernet'' would become a designation of varietal significance to include any of these grape varieties.

ATF agrees with the respondents who oppose use of ''Cabernet'' as a synonym for Cabernet Sauvignon. As noted by the OIV, ''Cabernet'' does not correspond to an actual grape variety name, nor is this term specific as to the grape variety to which it refers. While ''Cabernet'' has been used for some years to label Cabernet Sauvignon wines, other ''Cabernet'' grapes exist, and consumers could be confused as the actual grape variety intended. Conversely, there can be no consumer confusion as to the grape variety if the actual variety name appears on the label.

In the interest of providing accurate grape variety identification, ATF is not listing ''Cabernet'' as a synonym for Cabernet Sauvignon. However, due to its past use, ATF is listing ''Cabernet'' as an alternative name in § 4.92(b) for use until January 1, 1999. Concurrently, ATF Ruling 74–25 is declared obsolete as of the effective date of this final rule.

Durif/Petite Sirah

These names were proposed as synonyms in Notice No. 749. Three respondents commented on this proposal.

The OIV commented that the officially recognized OIV name for this grape is Durif, and not Petite Sirah. Wine World Estates concurred with the proposal to list ''Duriff'' as a synonym for Petite Sirah unless evidence is presented to the contrary.

Carole P. Meredith, the University of California, Agricultural Experiment Station at Davis, stated that the University's examination of Petite Sirah and Durif holdings show their Petite Sirah vines to be two or more different grape varieties. Furthermore, the Experimental Station's recent DNA research shows that the grape called Petite Sirah and the Durif grape have different DNA ''fingerprints,'' and are therefore probably different cultivars rather than the same grape. Consequently, ATF is listing both Durif and Petite Sirah as prime names in § 4.91 and not as synonyms. We will continue to seek evidence regarding the true identity of the grape called Petite Sirah.

Thompson Seedless/Sultanina

This grape variety is one of two the Committee recognized as having synonyms which could be equally accepted as the prime name. Consequently ATF proposed the use of both names as prime names, with either name permitted without qualification. In doing so, ATF noted that neither name is commonly used in wine labeling although Thompson Seedless is well known to consumers as a table grape.

Brown-Forman commented these names should not be used interchangeably. They argued that Thompson Seedless is an inferior grape which makes poor quality wine, and that use of the name Sultanina would mislead consumers. The EC commented that Sultanina is used for table grapes and raisins, but rarely used in wine production. They argued that its use for designating wine would be misleading and that ATF should phase out use of this name.

ATF finds few wines are designated with either name although this grape has been extensively used in producing non-varietal wines and blends. However, we note that the purpose of the list of grape names in § 4.91 is to provide accurate identification of grape varieties used in producing wine. The listing of a grape name there does not denote ''quality''; it merely reflects recognition of the grape variety name. Since ATF finds that both names are equally valid for this grape variety, both Thompson Seedless and Sultanina are listed as prime grape names and as synonyms.

Pinot Gris/Pinot Grigio

ATF proposed Pinot gris as a prime name in § 4.91 and Ruländer as an alternative name in § 4.91 be phased out by 1996. Pinot Grigio was not proposed in either section.

Long Vineyards and Martin Brothers Winery both requested that Pinot Grigio be listed as a synonym for Pinot gris. Long Vineyards stated they are disadvantaged when selling their Pinot gris versus Italian wines labeled as Pinot Grigio. Furthermore, they stated that due to worldwide sales of the Italian wine, consumers are more familiar with the varietal designation Pinot Grigio than they are with the name Pinot gris or Ruländer. Martin Brothers also cited the popularity of Italian Pinot Grigio wines in requesting this name be made a synonym for Pinot gris.

Based on the evidence that some United States wineries are labeling their Pinot gris as Pinot Grigio, and the fact that this term has gained consumer acceptance due to the large number of Italian Pinot Grigio imported into the United States, ATF is listing Pinot Grigio as a synonym for the prime name Pinot gris in § 4.91. ATF notes that this grape is known by many names throughout winegrowing regions of the world, but that Pinot gris and Pinot Grigio appears to be the most commonly used names for this grape in the United States.

Colombard/French Colombard

On the basis of strong support for continued use of the name French Colombard, this name was proposed in Notice No. 749 as a synonym for the prime name Colombard.

Three respondents commented on the use of French Colombard as a synonym. Wine World Estates supported the proposal to list it as a synonym. William F. Doering supported this proposal because of the economic and marketing importance of French Colombard. Eagle Ridge Winery commented that consumers would not be misled if the word ''French'' was deleted as part of the name.

Based on historical usage and consumer recognition of this term, ATF is listing French Colombard as a synonym for the prime name Colombard, provided that an appellation of origin appears in direct conjunction with French Colombard, in strict compliance with the requirement of § 4.34(b).

Mourvèdre/Mataro

ATF proposed the name Mourvèdre as a synonym for Mataro due to use of this name in labeling domestic wines. Wine World Estates supported this proposal while EC commented that Mataro is a geographic name in Spain and should be phased out in favor of Monstrell.

ATF finds that ampelographers such as Galet list Mataro and Mourvèdre as synonyms. It is difficult to establish one prime name since these different names reflect the Spanish and the French name for this grape. However, ATF finds that Mourvèdre enjoys greater use in labeling wine in the United States. For this reason, ATF is listing Mourvèdre as the prime name in § 4.91. As stated in Notice No. 749, ATF does not believe there is any reason to deny use of a grape variety name to United States winemakers simply because that name bears a resemblance to a foreign name of geographic significance. Thus, Mataro is retained as a synonym for the grape variety Mourvèdre in § 4.91, provided that when Mataro is used to indicate the grape variety, an appellation of origin appears in direct conjunction with Mataro in strict compliance with the requirements of § 4.34(b).

Cynthiana/Norton

Bruce Reisch, Cornell University Department of Horticultural Science at Geneva, submitted evidence that these grapes are the same variety. Reisch indicated that his examination of cultivars of Cynthiana and Norton vines, taken from wineries and nursery stock in Arkansas and Missouri, revealed them to be identical based on isozyme and ampelographic characteristics. He further stated that these grapes are of *Vitis aestivalis* ancestry, but that vines were introduced using different names in Virginia and Arkansas in the last century. Reisch also cited an 1891 report to the Missouri State Horticultural Society indicating that these varieties were actually the same grape. ATF notes that horticulturists have debated this question for more than a century.

Based on Reisch's comment and the evidence contained in the isozyme of these two cultivars, ATF concludes that they are indeed the same grape variety. Consequently, ATF is listing them as synonyms in the list of prime grape names in § 4.91. Due to the long-standing use of both names, their consumer recognition, and the impossible task of ascribing ''one prime name'' to this grape, each name is listed alphabetically in this section with the other name following in parentheses as a synonym.

ATF notes that other synonyms exist for this grape variety and that Norton Seedling and Virginia Seedling are listed as alternative names for Norton in § 4.92.

Vignoles/Ravat 51

ATF proposed Vignoles as a synonym for the prime name Ravat 51 in Notice No. 749. Bruce Reisch, Cornell University Department of Horticultural Science at Geneva, and William F. Doering supported this proposal, and it is adopted.

ATF notes that Ravat 51 is the prime name for this grape but that other numbered Ravat hybrids exist. Consequently, ATF will not approve labels showing only ''Ravat'' as the grape variety; labels must specify the Ravat hybrid number or use an approved synonym.

Campbell Early/Island Belle

Island Belle was proposed as an alternative grape name to be phased out by 1996 in favor of the prime name Campbell Early. While no comments were submitted regarding the use of either name, ATF has received additional information concerning this grape. The Island Belle grape was developed about 1898 by Adam Eckert in western Washington State. This grape is believed to be either a clone of Campbell Early or a hybrid derived from a Concord. The Island Belle grape is currently used in winemaking in Washington State and the wine enjoys a degree of consumer recognition.

Due to the current use of the name Island Belle in winemaking, and the fact that the true identity of this grape is uncertain, ATF is retaining the name by listing Island Belle as a synonym for the prime name Campbell Early in § 4.91. ATF would take action to list Island Belle as a prime name in this section should future research indicate that it is a distinct variety rather than a clone of Campbell Early.

Valdepeñas and Tempranillo

Valdepeñas was proposed as a prime name in § 4.91. While there were no comments addressed to this name in response to Notice No. 749, ATF has received information indicating that this grape is the Tempranillo, a *Vitis vinifera* native to Spain and used in producing Rioja wines. While well known and cultivated in Spain, Portugal, France, and Argentina as Tempranillo, this grape is known as Valdepeñas only in California. ATF notes that the FAMS listing of registered grape selections shows Tempranillo as a synonym for Valdepeñas.

In the interest of correctly identifying grape varieties, ATF is listing Tempranillo as the prime name of this grape variety in § 4.91. Valdepeñas is listed as a synonym for Tempranillo in this section. ATF will give future consideration to phasing out the name Valdepeñas.

Miscellaneous Synonyms

Lemberger was proposed as an alternative spelling for Limberger in proposed § 4.91. William F. Doering noted that the name Lemberger has long-recognized viticultural and commercial usage, and he concurred with the proposal to list it as a spelling variation for the prime name Limberger. Because of its commercial use in the United States, ATF is listing Lemberger as a synonym for the prime grape name Limberger.

Eagle Ridge Winery commented that Green Hungarian is actually Sylvaner, and that the term Green Hungarian is not used except by a few domestic producers. No evidence was submitted in support of this comment.

While the origin or identification of Green Hungarian remains uncertain, ATF has no information which supports Eagle Ridge Winery's comment that Green Hungarian is actually Sylvaner; therefore, this comment is not adopted.

The OIV commented that several prime names in § 4.91 are not the official OIV names. Names identified by the OIV include Black Malvoisie which they list as Cinsaut, Burger which they list as Monbadon, and Charbono which they list as Corbeau.

ATF acknowledges that although these grapes are known by the names suggested by the OIV, the names proposed in § 4.91 are more commonly employed in winemaking in the United States. Therefore, ATF is not changing these names as requested. In the case of Black Malvoisie and Cinsaut, both are listed in § 4.91, with Cinsaut listed as the prime name and Black Malvoisie as a synonym.

Wine World Estates commented favorably on the proposed listing of Gewürztraminer and Traminer as separate prime names in § 4.91. Eagle Ridge Winery commented that Gewürztraminer is a spicy version of

Traminer and that only Gewürztraminer should be listed.

Evidence is mixed on whether Gewürztraminer and Traminer are distinct grape varieties. The FPMS lists them as separate registered grape selections while the OIV lists these names as synonyms. Because the evidence is inconclusive, ATF is listing each as a prime name in § 4.91 and not as synonyms for the same grape.

Eagle Ridge Winery commented that Kleinberger is actually Ebling and is known by that name in Germany. ATF concurs with this comment but finds that this grape is well known by the name Kleinberger as well as by other synonyms. In view of the limited use of the name Ebling in the United States, ATF is not authorizing it as a synonym for this Kleinberger.

Orther Synonyms

ATF received no comments regarding the following prime names and synonyms proposed in § 4.91: Muscat Hamburg/Black Muscat; Meunier/Pinot Meunier; Rkatziteli/Rkatsiteli; Seyval/Seyval blanc; Shiraz/Syrah; Ugni blanc/Trebbiano. Therefore, these names are adopted as prime names and synonyms.

Prime Names and Synonyms

ATF has reorganized § 4.91 by listing only one prime name for each grape variety. ATF has drawn the distinction between prime names and synonyms primarily on the basis of the final Committee report but with some exceptions Synonyms and authorized spelling variants appear in parentheses following the prime name, but have no separate alphabetical listing except in the case of Thompson Seedless and Sultanina, and Cynthiana and Norton. In the Case of the Riesling grape, Riesling is listed as the prime name and White Riesling appears as a synonym. Synonyms and spelling variants may be used, standing alone, as the designation of a wine.

Alternative Names for Grape Varieties, § 4.92

Background

The final Committee report acknowledged that many grape varieties are known by more than one name, some by several names. As part of its deliberations, the Committee selected a preferred ''prime name'' for each variety and considered alternative names and synonyms. It then recommended two lists of alternatives names. The first contained synonyms which, if used on a label, would be required to appear in direct conjunction with the prime name. These alternative names referred to some older European grape varieties which were known by local or regional names, and which have received a degree of consumer acceptance. The Committee noted that these alternative names, due to regulatory precedent and commercial history, should be the exception to the general finding that, whenever possible, synonyms should be eliminated in the shortest practical time. No time period was given for phasing out these synonyms.

The Committee report also noted that some grape varieties are misnamed or incorrectly identified, but that these names have received a degree of consumer acceptance. In order to prevent economic hardship to growers and winemakers, the Committee recommended these names be phased out over a five-year period. This second list contained 52 alternative names.

Notice No. 581

ATF proposed two lists of alternative grape variety names, one containing names to be used only in conjunction with the prime name and one containing names to be phased out at a future date. Respondents submitted many written comments on this issue, and as a result, ATF modified this proposal.

Notice No. 749

In this notice ATF proposed only one list of alternative names. ATF proposed phasing out these 54 names, appearing at § 4.92, as of January 1, 1996. Other names were removed from the list of alternative names and proposed as synonyms to prime names in § 4.91; i.e., they could stand alone on a label as a designation and would not be phased out in the future.

General Comments on Alternative Names

ATF received only three comments addressing the issue of permitting alternative names. William F. Doering concurred with the proposal for a single list of alternative names to be phased out in the future. Wine World Estates agreed with the concept to phase out these alternative names over time, but due to the economic consequences, stated that the proposed date of January 1, 1996, did not allow a long enough transition period.

NABI opposed the proposal. They supported the Committee recommendation to eliminate synonyms in labeling and to use only the prime name as a designation. NABI stated that permitting alternative names would lead to consumer confusion due to the large number of synonyms and alternative names, and would be contrary to ATF's intent to standardize grape variety names. NABI favored the original proposal to permit alternative names to be used only in conjunction with the prime name on the label, and favored phasing out these alternative names after a period of time.

We are adopting the list of alternative names proposed at § 4.92. While ATF wishes to reduce the number of alternative names and synonyms, we find it is impossible to phase out use of these names immediately. Many of them have been used for decades in labeling wines and consumers are familiar with them. Wineries have large investments in labels, packaging material, and advertising which utilize these names. Wineries also have substantial ''goodwill'' associated with some of these variety names.

With respect to Wine World Estate's comment that the January 1, 1996, date is too short a transition period, ATF notes that it first proposed phasing out most of these names in Notice No 581, published in 1986. That proposal would have terminated use of most of these names within five years. We believe that the wine industry has been given ample notice that these names would be phased out. However, because of the delay in publishing this final rule, ATF is adopting January 1, 1997 as the termination date for all names proposed for inclusion in § 4.92(a) by Notice No. 749.

In this final rule, ATF is adding new names to the list of alternative names. In order to provide an adequate transition period for phasing out these new names, ATF is permitting their use until January 1, 1999.

Specific Comments on Alternative Names

Several respondents commented that specific alternative names be made synonyms for prime grape names in order to prevent them from being phased out.

Gutedel

Gutedel was proposed as an alternative name for Chasselas Doré. Eagle Ridge Winery commented that Gutedel is the correct name in its homeland of Germany, that Chasselas Doré is not as commonly used, and requested that Gutedel be listed as a synonym in § 4.91.

According to the OIV listing of grape variety names, Gutedel is the name commonly used in Germany and Switzerland, while Chasselas Doré is listed as the primary name in Canada, Chile, France, Romania, and Italy (Chasselas Dorato). The FPMS lists Chasselas Doré but not Gutedel as a registered grape selection, while the State of Oregon authorizes Chasselas Doré as the only varietal designation for wine made from this grape.

Based on this evidence, ATF finds that the name Chasselas Doré is more commonly used in the United States. Thus, ATF is not adopting this comment to list Gutedel as a synonym for Chasselas Doré. Gutedel remains listed in § 4.92(a) as an alternative name to be phased out by January 1, 1997.

Pineau de la Loire

This name was proposed as an alternative name for Chenin blanc. Three respondents, the Embassy of France, Brown-Forman and Wine World Estates, supported this proposal citing the fact that a grape should not contain a ''Pinot'' or ''Pineau'' designation unless it is a true Pinot grape. Since Chenin blanc is not a true Pinot grape, ATF is continuing to list Pineau de la Loire as an alternative name in § 4.92(a) to be phased out as of January 1, 1997.

Pinot Chardonnay

This name was proposed as an alternative name for Chardonnay. William F. Doering and Wine World Estates both supported this proposal because this grape is not a true Pinot grape. ATF continues to list Pinot Chardonnay as an alternative name in § 4.92(a) to be phased out by January 1, 1997.

Muscadelle

Notice No. 749 listed Muscadelle as an alternative name for the prime grape name Sauvignon vert. In their comment, the OIV noted that the official OIV recognized name for this grape is Muscadelle. Wine Institute commented that California uses Muscadelle as the prime name for this grape in its annual grape crush report.

The FPMS lists both Sauvignon vert and Muscadelle (du Bordelais) as registered grape selections while Oregon only permits Muscadelle to be used for varietal labeling of this wine. Furthermore, examination of wine literature indicates that the grape which is called Sauvignon vert in California is actually the Muscadelle grape.

Based on this evidence and the comments received on this issue, ATF is listing Muscadelle as the prime name for this grape in § 4.91. Concurrently, we are removing Sauvignon vert from that list and according it alternative name status. It is added to the new listing of names in § 4.92(b) which may be used until January 1, 1999.

Refosco

Refosco was proposed as an alternative name for Mondeuse. Four respondents requested that Refosco be made the prime name of this grape. Lockwood, a California company which produces a varietal Refosco wine, stated that this wine is nationally recognized as Refosco, and that to eliminate this name would cause them economic hardship. Wine Institute noted that the California grape crush report uses Refosco and Mondeuse as synonyms. They further stated that several wineries are releasing a varietal Refosco wine and that consumers understand this term. San Lucas Vineyards stated they have sold Refosco grapes for years to several wineries. They also cited Refosco as a more pleasant and marketable name than Mondeuse. Wine World Estates noted that the FPMS lists Refosco rather than Mondeuse as the name of their registered grape selections.

The difference between these names is attributable to place of cultivation, with Refosco being the Italian name and Mondeuse being the French name for this grape. ATF finds no prejudice toward use of either name, and both have received a degree of consumer recognition in the United States. ATF is, therefore, adopting these comments by listing Refosco as a synonym for Mondeuse in § 4.91.

Other Alternative Names

Other names proposed in § 4.92 are retained as alternative names except as noted above. Names appearing at § 4.92(a) may be used for wine designations until January 1, 1997. See also the preamble discussion of names similar to appellations of origin for comments on Saint Emilion, and the preamble section entitled ''Riesling issues'' for a discussion of Franken Riesling.

Riesling Issues

Background

The final report of the Winegrape Varietal Names Advisory Committee focused extensively on Riesling issues. It noted that Johannisberg Riesling has long been recognized as an American term in order to distinguish the White Riesling from other grape varieties which are not true Rieslings. The Committee recommended that White Riesling and Johannisberg Riesling be permitted as equal synonyms for this grape. Furthermore, it recommended that the term Riesling not be permitted to stand alone as the name of an American grape variety, but gave no explanation for this position. The final Committee report made recommendations regarding the use of other grape variety names which incorporate the term Riesling.

Riesling as a Prime Name

ATF proposed White Riesling and Johannisberg Riesling as prime names in Notice Nos. 581 and 749, but did not propose to permit use of the name Riesling. Notice No. 749 stated that this proposal was intended to create a clear distinction between those grapes which in the past were labeled as ''Riesling'' but which were not the true Riesling grape and the true White Riseling grape. Accordingly, the term ''Riesling'' would no longer be used to label grapes made from Emerald Riesling or other so-called Riesling grapes.

ATF received comments from 19 respondents regarding Riesling issues. Sixteen of them favored permitting the term ''Riesling'' (with or without synonyms) as a prime name, or as a type designation of varietal significance.

Thirteen respondents stated that Riesling is the true name of this grape, and that ATF should not prohibit American winemakers from using it to label their wines. Respondents supported this position by stating that it is unacceptable for the United States to deny American winemakers use of the accepted world-wide name for the Riesling grape and cited the fact that German wines are labeled simply Riesling. The Federal Republic of Germany commented that consumers would be confused or misled if other names are used to designate a Riesling wine. The Oregon Winegrowers Association commented that without use of the term Riesling, U.S. winemakers would be at a competitive disadvantage against German wines. Amity Vineyards stated that consumers might think that German Riesling is a wine different from an American Riesling. The increasing acceptance of American wines in the international wine community was cited by H. Sichel Söhne as an important reason to allow the designation Riesling to be used on American wines.

The Washington Wine Commission stated that consumers identify strongly with the Riesling name and that wineries have worked hard to cultivate a positive image for Riesling among consumers. Moreover, the prohibition of Riesling as a prime name would exclude the ability to market a ''Dry Riesling'' or ''Blush Riesling'' wine, a position also endorsed by Stimson Lane, and by the Oregon Winegrowers Association. This association cited Oregon law which prohibits use of Johannisberg Riesling on a wine label, thus requiring Oregon wineries to market either a Riesling or

White Riesling wine. They stated that denial of the ability to market a Riesling wine would cause Oregon wineries severe economic hardship. Other respondents favoring listing Riesling as a prime name included the EC, the OIV, the DW, NABI, the AVA, Eagle Ridge Winery, and Umpqua Valley Chapter, Oregon Winegrowers Association.

Three respondents including Wine Institute, Heublein, and Wine World Estates favored listing Riesling in § 4.28 as a type designation of varietal significance rather than as a grape variety name. According to Wine Institute, ATF has permitted winemakers to use the term ''Riesling'' to designate a wine which derives 75 percent of its volume from any combination of White Riesling or Emerald Riesling grapes. They stated that consumers have come to associate the term Riesling as a descriptive term used by a specific producer rather than as a specific varietal designation. Thus, Wine Institute argued that Riesling should be a general term which shows merely use of various Riesling grapes rather than designating the White Riesling grape. They further commented that to eliminate this practice would require wineries to label wines with the actual percentage of various grape varieties, action which would be costly and would confuse consumers. Wine World Estates and Heublein supported making Riesling a type designation of varietal significance, similar to the proposed designations for Muscatel, Muscadine, and Scuppernong.

Brown-Forman supported the proposal to list White Riesling and Johannisberg Riesling as prime names, and to prohibit the term ''Riesling'' from standing alone. The Verband Deutscher Weinexporteure and the Deutscher Weinbauverband commented that White Riesling should be the only designation for American Riesling wine, and that Riesling should not be used as a prime name for American wines.

Conclusion

All comments clearly indicate that the worldwide name for this grape is Riesling. ATF particularly notes two quotations from the Statement of Principles in the Committee report: ''Accuracy has been the Committee's primary objective'' and ''the key question has in every case been 'What is correct?' '' On the basis of all evidence, ATF finds no valid reason to exclude Riesling from the list of prime names in § 4.91.

ATF rejects the position advanced by three respondents to make Riesling a type designation of varietal significance, and thus permit its use for designating wines composed of a number of so-called Riesling grapes. This would be a misleading use of the name since Riesling is accepted world-wide, as well as within the United States, as representing a specific, identified grape variety. Due to the enormous preponderance of wines labeled Riesling and made from the White Riesling grape, ATF believes it would be deceptive to permit wines made from Emerald Riesling, Grey Riesling, or other so-called Riesling grapes to be labeled simply ''Riesling.'' Thus, ATF is not adopting the comment to list Riesling as a type designation of varietal significance, and is instead listing Riesling as a grape variety name.

Riesling is added to the list of prime grape names in § 4.91. As of the effective date of this final rule, any American wine labeled ''Riesling'' must be made from a minimum of 75 percent Riesling (White Riesling) grapes. Wines now made from Emerald Riesling or other so-called Riesling grapes will need to be relabeled to show the actual grape varieties used.

Discussion of White Riesling and Johannisberg Riesling

The Winegrape Varietal Names Advisory Committee recognized White Riesling (the literal translation of ''Weisser Riesling,'' the botanical name of the grape) as the prime grape name. The Committee also recommended listing Johannisberg Riesling as a synonym since they found this name had been in use for many years in the United States, and that it was used to distinguish the White Riesling grape from other so-called Riesling grapes. Many comments addressed the listing of both names in § 4.91.

Many respondents objected to permitting ''Johannisberg Riesling'' as a synonym for the Riesling grape. Respondents stated that ''Johannisberg'' is a geographic term and a registered trademark; thus, under German law, only wine from Schloss Johannisberg in Germany is entitled to the designation Johannisberg Riesling.

ATF received fewer comments addressed to use of White Riesling as a synonym. The DW commented that while this is the scientific term, White Riesling is never used to label German wines. The Oregon Winegrowers Association commented in favor of allowing Riesling as the prime name, but noted that the State of Oregon permits either Riesling or White Riesling to be used in labeling.

The Verband Deutscher Weinexporteure and the Deutscher Weinbauverband favored authorizing White Riesling as the only designation for American Riesling wine. H. Sichel Söhne favored retaining White Riesling as an alternative name. NABI supported Riesling as the prime name but favored permitting White Riesling as an alternative. Brown-Forman supported the proposal to list White Riesling and Johannisberg Riesling as prime names, and to prohibit the term Riesling from standing alone. Wine World Estates commented in favor of permitting both White Riesling and Johannisberg Riesling as synonyms.

Conclusion

ATF finds the term White Riesling is well known to consumers. This term is used internationally as a designation for this wine. White Riesling is also the botanical name of this grape (a translation of ''Weisser Riesling''). ATF is, therefore, listing White Riesling as a synonym for Riesling in § 4.91.

Although the term Johannisberg Riesling has long been used in the United States to distinguish true [White] Riesling wine from wine made with other so-called Riesling grapes, the evidence is clear that Johannisberg Riesling is not the correct name of this grape variety. Moreover, as noted by several respondents, ''Johannisberg'' is a German geographic term, and the name of a specific winegrowing region within Germany.

Since this final rule authorizes use of the name Riesling, standing by itself, as the prime name for wine made from this grape, ATF finds that there is no longer the necessity to distinguish wine made from the true Riesling grape by use of the term ''Johannisberg Riesling.'' Based on this fact, and in the interest of implementing the Committee's charter to provide accurate and correct grape variety names, ATF has concluded that the name Johannisberg Riesling should no longer be permitted as a grape variety designation. Accordingly, Johannisberg Riesling is removed as a synonym for Riesling in § 4.92 and made an alternative name. Owing to its current use and the necessity to prepare new packaging and marketing materials, Johannisberg Riesling is listed in § 4.92(b) which permits its use in labeling wines prior to January 1, 1999.

Other Riesling Names

Several other grape variety names contain the word ''Riesling,'' but are not the true Riesling grape. Grey Riesling, Emerald Riesling, Missouri Riesling, and Wälschriesling (and synonym Welschriesling) were proposed as prime names in Notice Nos. 581 and 749.

General Comments

Fourteen respondents favored the removal of these Riesling names from the list of prime names. The consensus was that none of these grape varieties are the true Riesling grape, and that any use of a Riesling name to identify non-Riesling grapes is misleading and confuses the public. The Oregon Winegrowers Association noted that United States wineries' varietal labeling of these misnamed ''Riesling'' varieties is declining. All of these respondents requested that ATF take action to phase out the use of Grey Riesling, Emerald Riesling, Missouri Riesling, and Wälschriesling over a period of time.

Grey Riesling/Trousseau Gris

The final Committee report stated that the Grey Riesling grape had not been conclusively identified but that it was not a true Riesling. It recommended that ATF replace the incorrect name Grey Riesling with the correct grape variety name when positive ampelographic identification of this grape was made. Grey Riesling was proposed as the prime name in Notice No. 581 since no definitive identification of this grape had been made. However, when Notice No. 749 was published in September 1992, this grape had been identified as Trousseau gris which was proposed as a synonym for Grey Riesling.

The Federal Republic of Germany comment confirmed this ampelographic finding. Their comment stated that findings of the German Federal Institute for Cultivation Research in Vintage Culture and Horticulture, Institute for Grapevine Breeding Geilweilerhof, supports the recent ampelographic study showing Grey Riesling to be the variety Trousseau gris.

Twelve respondents commented that ATF should phase out the name Grey Riesling in favor of the correct name Trousseau gris. Respondents included both European and international interests, one Committee member, and American wineries and grape growers. Only one respondent, Wine World Estates, commented in favor of retaining Grey Riesling as a prime name, although as a synonym for Trousseau gris. ATF notes that five respondents favored retaining Grey Riesling as a prime name in their comments to Notice No. 581, prior to positive identification of the grape. Reasons advanced at that time included the fact that this variety had been grown in California for over 100 years and had received wide public acceptance as Grey Riesling. Other respondents noted that the name Grey Riesling was preferable to an unknown European grape variety name with no consumer recognition.

ATF finds the evidence for removal of Grey Riesling from the list of prime names to be very strong. This grape is not related to the Riesling, but has been positively identified as Trousseau gris. The FPMS lists ''Trousseau'' as a synonym for Grey Riesling. Moreover, as noted by the Oregon Winegrowers Association, the use of the name Grey Riesling for labeling varietal wines is declining. ATF is, therefore, removing Grey Riesling from the list of prime names in § 4.91, and is listing Trousseau gris as the prime grape name. In order to give American wineries sufficient time to make the name change to Trousseau gris, ATF is listing Grey Riesling as an alternative name in § 4.92(b) which may be used until January 1, 1999.

Missouri Riesling

This grape has been cultivated in the United States for over a century, always as Missouri Riesling. It is not a Riesling, but is a native American grape, probably a cross of *Vitis ripara* and *Vitis labrusca*. Historical evidence indicates this grape was developed by Nicholas Grein in Hermann, Missouri in 1870. Due to the lack of any alternative name, the Committee report recommended Missouri Riesling be included in the list of prime names. It was proposed as a prime name in Notice Nos. 581 and 749.

ATF received eight comments addressing Missouri Riesling. All respondents requested that since it is not a true Riesling, and because it contains a place name, ATF remove it from the list of prime grape names. Respondents suggested that the name be replaced either with ''Grein'' or ''Grein Grape'' in honor of Nicholas Grein who developed the grape, or with ''Missouri Grape,'' and that Missouri Riesling be listed as an alternative name for a short period of time.

ATF acknowledges that the Missouri Riesling is not a true Riesling grape. Nevertheless, it has been used as a wine designation for a long period of time. Since there is no evidence which indicates that this grape has any other known name, ATF is retaining the prime name Missouri Riesling in § 4.91.

Emerald Riesling

The Committee report noted that this grape is widely planted, but that it is a crossbred variety and not the true Riesling grape. In the absence of an accepted alternative name, the Committee recommended its continued use as a prime name. Emerald Riesling was proposed as a prime name in Notice Nos. 581 and 749.

This grape was developed by Professor H. P. Olmo at the University of California, Davis in 1948, and is identified as ''Emerald Riesling (Olmo 1948).'' It is a cross between the Riesling grape and Muscadelle (Sauvignon vert).

Eight respondents commented on this proposal. Seven noted that Emerald Riesling is not a true Riesling grape and this name should be listed as an alternative name and phased out in the future. These respondents suggested that this grape be named ''Olmo'' in honor of its developer, ''Emerald'' or ''Emerald Grape,'' or be given a new commercial name. Wine World Estates supported retaining Emerald Riesling as a prime grape name.

ATF is listing Emerald Riesling as a prime grape name for two reasons. First, there is no other known name which has been used; it is known to industry and consumers only as Emerald Riesling. ATF also retains this name because, unlike other misnamed Riesling varieties, this grape is directly related to the Riesling. Thus, ATF is listing Emerald Riesling as a prime name for this grape in § 4.91.

Wälschriesling and Welschriesling

On the basis of the final Committee report, both names were proposed as prime names and synonyms in Notices Nos. 581 and 749.

Nine respondents commented on this. Eight agreed that this grape is not a true Riesling, and that the prime name should be changed. The German Federal Republic noted that the naming of this grape is primarily a European problem since it is widely cultivated in Southeastern Europe under various names including ''Laski Rizling,'' ''Olasz Rizling,'' ''Rakusky Rizling,'' and ''Rizling Vlassky.'' One respondent suggested that the name should be standardized as Welschriesling while five others suggested using the European name Welsch Rizling.

ATF is not aware that this grape has been used in the United States to make a varietal wine designated as Wälschriesling or Welschriesling; thus consumers are unfamiliar with either name. ATF is thus adopting the suggestion to use the name for this grape commonly used in Europe, Welsch Rizling. We believe this action will help avoid consumer confusion since consumers will be unlikely to confuse wine labeled Welsch Rizling with wine made from the White Riesling grape.

Thus, ATF is listing Welsch Rizling as a prime name in § 4.91. Wälschriesling and Welschriesling are listed in § 4.92(a) as alternative names to be phased out by January 1, 1997. This short phase out period is provided due to lack of use of either name at the present time.

Other Riesling Names

The final Committee report noted that a few other grape varieties include the name Riesling. Since none of these are the true Riesling grape, it recommended these other names be eliminated, and specified Okanagon Riesling and Siegfried Riesling as misleading names for grapes which are not Rieslings. ATF notes that Siegfried Riesling was released in 1958 under the name Siegfried which is included in the list of prime grape names. We are not aware of any other name by which Okanagon Riesling has been called.

ATF did not propose Okanagon Riesling, Siegfried Riesling, or any other grape variety names which includes the term ''Riesling'' as a prime grape name in Notice Nos. 581 or 749. Franken Riesling was proposed as an alternative name for Sylvaner, to be phased out by January 1, 1997.

Twelve respondents commented on the use of other so-called Riesling names. These respondents unanimously supported excluding any other Riesling grape names from the list of prime names in § 4.91, and supported ATF's proposal to phase out Franken Riesling in favor of Sylvaner by January 1, 1997. These proposals are adopted.

Gamay Issues

Napa Gamay

This grape has a long history of cultivation in California but its origin is unclear. During the 1960's, the University of California at Davis determined that this grape was the French Gamay grape (Gamay noir). More recent ampelographic studies have disclosed that the grape called Napa Gamay grape is not related to the French Gamay.

The Committee report recommended that Napa Gamay be proposed as an alternative name to be phased out when the grape's true identity was established. Notice No. 581 proposed Napa Gamay as a prime grape name, but noted that work was underway to establish its true identity. Recent ampelographic study has identified this grape as Valdiguié, a French grape. Due to the long-standing use of the name, ATF proposed Napa Gamay as a synonym for Valdiguié in Notice No. 749. ATF solicited comments on whether Napa Gamay should be retained as a synonym for Valdiguié, or whether the name Napa Gamay should be phased out in the future.

Respondents submitted mixed comments on this issue. Wine World Estates and the California Association of Winegrape Growers commented that Napa Gamay should be retained as a synonym for Valdiguié due to its historical use and consumer recognition. The Embassy of France and the INAO favored the phase out of Napa Gamay as a prime name in favor of the correct name Valdiguié. The OIV commented in favor of phasing out the term Napa Gamay in order to remove a geographic term from a grape variety name. Amity Vineyards pointed out that the Napa Gamay grape is unrelated to Gamay noir, and thus, ''imposters'' gain a marketing advantage over persons selling true varietal Gamay noir wine.

Based on the comments and the recent identification of this grape variety, ATF has decided to phase out the name Napa Gamay. ATF finds that Napa Gamay is seldom used for labeling a varietal wine; more often it is used in producing Gamay Beaujolais and other non-varietal wines. Moreover, it is not a Gamay grape; thus any use of the name ''Gamay'' for this grape is incorrect. This grape now has been positively identified as Valdiguié, although it is not widely known by this name. In the interests of accuracy in labeling, ATF is adopting Valdiguié as the prime name in § 4.91, and Napa Gamay as an alternative name in § 4.92(b) which may be used for labeling wine until January 1, 1999.

Gamay Noir

The Committee recommended that the grape variety Gamay be included as a prime name in anticipation that wine from the true Gamay grape would be produced in the United States in the future. Gamay was proposed as a prime name in Notice No. 581. On the basis of a comment submitted by the Oregon Winegrowers Association, ATF proposed Gamay noir, a shortened form of the name Gamay noir à jus blanc, as its prime name in Notice No. 749. In that notice, ATF stated that use of Gamay noir would help distinguish wine made from the true Gamay grape from other wines which were labeled ''Gamay'' in the past.

ATF received no comments addressed to the name Gamay noir, and it is included in the list of prime grape names. ATF further notes that we will no longer approve American wine labels which show only ''Gamay'' as a designation. Future labels must show Gamay noir if produced from the true Gamay grape, or Napa Gamay if produced from Valdiguié and bottled prior to January 1, 1999.

Gamay Beaujolais

ATF did not address the term Gamay Beaujolais in Notice No. 749. That notice stated that ATF had insufficient information either to propose eliminating use of the term Gamay Beaujolais or to authorize its continued use on a permanent basis.

Wine World Estates favored the decision to defer action on use of the term Gamay Beaujolais. The California Association of Winegrape Growers supported ATF's current policy to permit wine to be designated Gamay Beaujolais if it is derived from not less than 75 percent Pinot noir or Valdiguié (Napa Gamay) grapes. Several other respondents requested that ATF specify a date by which use of the term Gamay Beaujolais would be phased out in favor of labeling these wines with the actual grape variety. These respondents included the Agricultural Counselor, Embassy of France, the Union Interprofessionnelle des Vins du Beaujolais, the FEVS, the INAO, and NABI.

ATF has made Gamay Beaujolais the subject of a separate rulemaking proceeding. See Notice No. 793, 59 FR 15878, April 5, 1994. In the interim, ATF will permit domestic wineries to use Gamay Beaujolais as a designation. Such wine must derive at least 75 percent of its volume from Pinot noir, from Valdiguié (Napa Gamay), or from a mixture of these grapes.

New Grape Variety Names

General

Five respondents requested the inclusion of additional grape variety names to the list of prime names in § 4.91. Two of them are newly-developed grape varieties; others are European *vinifera* grapes which have been introduced into viticultural use in the United States. In Notice No. 749, ATF also solicited information on a number of grape varieties which were not proposed as prime names.

Chardonel

Bruce Reisch, Department of Horticultural Sciences, The New York State Agricultural Experiment Station, Cornell University at Geneva, requested that Chardonel be added to the list of prime names. He stated that Chardonel is a cross between Seyval and Chardonnay first made in 1953 at Geneva. It was propagated in 1960 as ''NY 45010'' and later renamed ''Geneva White 9.'' The grape was named Chardonel by Cornell University in 1990, and has received U.S. Plant Patent No. 7860, dated May 5, 1992.

According to Reisch, growers in Maryland, New Jersey, Pennsylvania and Missouri have expressed satisfaction with the viticultural and winemaking characteristics of Chardonel. Wine was first made from this grape in 1966. Currently, the grape is cultivated in Pennsylvania, Michigan, and Arkansas, and vines are available from the New York State Fruit Testing Cooperative Association, Geneva, and from commercial nurseries. ATF has given certificates of label approval to wineries in several States for a Chardonel wine. Accordingly, ATF is adding Chardonel to the list of prime grape names in § 4.91.

Golden Isles

R.H. Lane, Associate Professor of Horticulture, the University of Georgia, Agricultural Experiment Station, requested that Golden Isles, another newly-developed grape variety, be included on the list of prime names. Golden Isles is a bronze Muscadine (*Muscadinia rotundifolia*) grape developed at the University of Georgia Agricultural Experiment Station, and is a cross between Fry and Georgia 19–6 made in 1969. According to the literature, Golden Isles produces a high quality wine with less pronounced Muscadine flavor than other bronze Muscadine wines. Golden Isles vines are commercially available.

ATF is adopting this comment and adding Golden Isles to the list of prime names in § 4.91.

Sereksiya

ATF requested information about the variety ''Sereksia.'' This grape, a *Vitis vinifera*, is a native of Russia, but has been introduced into the United States for viticultural use.

Bruce Reisch commented that Sereksiya Chernaya is a blue grape from the Soviet Union. He noted that it has many old world synonyms (Bobyaska Nyagra, Cheryi Redkii, Koldaursha, Sassar, Stropatyi, Tsotlyar), but that the correct name is ''Sereksiya.'' This grape has been used by at least one New York winery to make a varietal wine. Based on this evidence, ATF is adding Sereksiya to the list of prime grape names in § 4.91.

Other Grape Varieties

Three respondents sought the inclusion of other grape varieties on the list of prime names. These varieties are *Vitis vinifera* grapes which have been introduced into viticultural use in the United States in recent years and which are now being used to make varietal wines. The Millbrook Winery, Mount Palomar Winery, and Guenoc Winery requested inclusion of the following *vinifera* varieties: ''Arneis,'' ''Carmenère,'' ''Cortese,'' ''Corvina,'' Fernão Pires,'' ''Freisa,'' ''Gros Verdot,'' ''Roussanne,'' ''Teroldego,'' ''Tocai Friulano,'' and ''Verdelho.''

Arneis is a white wine grape native to Italy's Piedmont region. According to the OIV, it has no synonyms in general use. ATF has granted label approval to at least one California winery for a varietal Arneis wine. Due to its introduction in the United States and use in making wine, ATF is listing Arneis as a prime grape name in § 4.91.

Carmenère is a red wine variety native to Bordeaux. The OIV lists no synonyms in general use. It is listed as a grape variety name for use under the rules of the Oregon Liquor Commission. Carmenère is a Bordeaux grape which is also used in Bordeaux-style blends produced in the United States. Due to its use in winemaking, ATF is listing Carmenère as a prime grape name in § 4.91.

Cortese is a white wine variety grown in the Piedmont region of Italy. The OIV lists no synonyms which are in worldwide use. Mt. Palomar Vineyards commented they currently grow two acres of Cortese in their vineyard in Temecula, CA, and will produce varietal wine in the future. Due to its introduction in the United States and use in making wine, ATF is adding Cortese to the list of prime grape names in § 4.91.

Corvina, a red wine grape, is native to the Ventio region of Italy where it is a common element in Bardolino and Valpolicella wines. In Italy this grape is also known as ''Corvina Veronese.'' Corvina Veronese is a FPMS registered grape selection, and is available for commercial use in the United States. Based on the use of this grape in winemaking in the United States, ATF is listing Corvina as a prime name in § 4.91, but without the geographic term ''Veronese'' which refers to the region in Italy where the Corvina grape is commonly grown.

Fernão Pires is a white grape native to Portugal, but also grown in South Africa. It is listed as a FPMS registered grape selection. According to Millbrook Winery, a small amount of Fernão Pires has been planted in the United States. ATF believes this grape variety is being used in producing wine in the United States, or will be used in the near future. Thus, ATF is listing Fernão Pires as a prime grape name in § 4.91.

Freisa is an Italian black grape. According to the OIV, there are no synonyms in worldwide usage. Freisa is listed as a FPMS registered grape selection. Millbrook Winery commented that a small amount of Freisa has been planted in at least two vineyards, and they have produced wine from these grapes. Due to its availability in the United States and its use in making wine, ATF is adding Freisa to the list of prime names in § 4.91.

Gros Verdot is another red wine variety native to Bordeaux. It is not currently listed as an FPMS registered grape selection although Guenoc Winery stated they are growing this grape. ATF believes that this grape will be used in producing varietal wines. Consequently, ATF is listing Gros Verdot as a prime grape name in § 4.91.

Roussanne is a white wine variety native to the Rhône. The OIV lists use of the synonym ''Bergeron'' in France. Roussanne is not listed as an FPMS registered grape selection, although it has been used to produce wine in California where plantings are as yet limited. ATF has granted a certificate of label approval to a California winery for their Roussanne wine. Due to its introduction in the United States and use in making wine, ATF is listing Roussanne as a prime name in § 4.91.

Teroldego is a red wine variety indigenous to Italy's northeast Trento-Alto Adige region where it is grown almost exclusively on the Campo Rotaliano plain north of Trento. The OIV lists no synonyms in general use. Teroldego is not listed as an FPMS registered grape selection, although there are small plantings in the United States.

Millbrook Winery has stated that they are producing a wine using Teroldego grapes. Based on this evidence of usage, ATF is adding Teroldego to the list of prime names in § 4.91.

Tocai Friulano as its name implies is a white wine grape native to the Friuli-Venezia Giulia region of extreme northwest Italy. The OIV lists several synonyms including ''Tokai,'' ''Tokay,'' and ''Sauvignonasse.'' Tocai Friulano is listed as an FPMS registered grape selection and there are small plantings in the United States. At least one winery has been given a certificate of label approval for a varietal Tocai Friulano wine.

Due to its cultivation in the United States and its use in winemaking, ATF is including Tocai Friulano in the list of prime grape names in § 4.91.

Verdelho is a white wine grape native to Portugal which is widely used in producing Port and Maderia wines. It is also grown in Australia where it is used in producing table wines. Verdelho is listed as a registered grape selection by the FPMS and is commercially available at nurseries in the United States. Based on this evidence, ATF is adding Verdelho to the list of prime grape names in § 4.91.

Pinotage, a red grape variety, is a cross between Pinot noir and Cinsaut.

This grape is widely planted in South Africa and in recent years small amounts have been planted in the United States. It is listed as a registered grape variety by the FPMS, and is commercially available. Pinotage is currently used to make wine and ATF has granted certificates of label approval for varietal Pinotage wines. Although no respondents requested the inclusion of Pinotage in the list of prime grape names, ATF is adding this grape to the list based on its current use.

Early Muscat. Early Muscat is a *vinifera* grape grown on the west coast primarily as a table grape. Although seldom employed in winemaking, a number of wineries have produced a varietal Early Muscat wine over the last several years. The State of Oregon lists Early Muscat as a permitted grape variety designation, and this grape is available through commercial nurseries.

Although no written comments were received regarding variety, ATF is including Early Muscat in the list of prime grape names in § 4.91 on the basis of its use in winemaking.

Fredonia is an older *Vitis labrusca* grape. It has fallen out of favor in producing a varietal wine in recent years, but still enjoys use in winemaking. ATF notes that it has granted label approval recently to wineries producing varietal Fredonia wine. Although no respondents to Notice No. 749 requested its inclusion, ATF is including Fredonia in the list of prime grape names in § 4.91.

Grape Variety Names Identical or Similar to Appellations of Origin or Foreign Geographic Terms

Backgound

Included in proposed § 4.91 were 13 grape variety names which six respondents identified as being similar or identical to recognized appellations of origin within the European Community. These respondents including the EC, the Embassy of Spain (Spain), the Embassy of the Republic of France (France), the OIV, the FEVS, and INAO identified the following proposed grape variety names as being identical or similar to recognized appellations of origin within Europe.

Wine Grape Variety	Appellation of Origin (Nation)
Alicante Bouschet	Alicante (Spain).
Aligoté	Bourgogne Aligoté (France).
Carignane	Cariñena (Spain).
Fumé blanc	Blanc Fumé de Pouilly (France).
Johannisberg Riesling.	Johannisberg (Germany).
Muscat Pantelleria	Moscato di Pantelleria (Italy).
Rosette	Rosette (France).
Pinot Saint George	Saint-Georges Saint-Emilion (France).
St. Croix	Ste.-Croix Du-Mont (France).
Saint Macaire	Cotes de Bordeaux Saint-Macaire (France).
Tinta Madeira	Madeira (Portugal).
Valdepeñas	Valdepeñas (Spain).
Vivant	Romanee Saint-Vivant (France)

These respondents objected to the proposal to list these as prime grape variety names on the basis that their use on American wine labels would: (1) be confusing and misleading to consumers since the wines would not be produced in the designated areas and would not meet the appellation of origin requirements; (2) comprise an erosion of the foreign appellation of origin name; and (3) be in violation of the exchange of letters between the EC and United States of July 26, 1983, which were intended to prevent erosion of non-generic designations of geographic significance. Several respondents rejected ATF's argument made in Notice No. 749 that use of these names was not likely to result in consumer confusion since the grape variety name would always appear in direct conjunction with an appellation of origin on a wine label. Spain commented that the authorization of three grape variety names, ''Alicante Bouschet,'' ''Carignane,'' and ''Valdepeñas,'' would hinder future ATF recognition of well established appellations of origin, and would negatively impact the sale of Spanish wines in the U.S. market.

The EC, France, and the INAO did not object to the use of Aligoté as a grape variety name provided ATF prohibited winemakers from using the terms Aligoté and Burgundy (a semigeneric designation under § 4.24(b)) together on American wine labels. These respondents believed this labeling could be confused with the French appellation of origin ''Bourgogne Aligoté.''

The EC and OIV further noted that some grape variety names in § 4.91 contain geographic terms which could be confusing to consumers as to the origin of wines. These names were in addition to those cited as resembling approved appellations of origin, and included the following: Early Burgundy, Flame Tokay, Green Hungarian, Muscat of Alexandria, Muscat Canelli, Mataro, Napa Gamay, and Naples. The OIV suggested synonyms for these grapes which do not contain geographic terms and which they believe would be less likely to confuse consumers.

Discussion

ATF set forth its position concerning the use of grape variety names which may be similar to foreign appellations of origin in Notice No. 749. ATF stated that there is no reason to deny use of a grape variety name to American winemakers simply because that name bears a resemblance to a foreign name of geographic significance. ATF believes the requirement to use an appellation of origin in direct conjunction with a grape variety name will prevent confusion between an American varietal wine and a wine labeled with a foreign appellation of origin. ATF believes this requirement makes foreign wines distinctive from American wines bearing a grape variety name. We further stated that any questions concerning the potential for consumer confusion as to the identity of wine which may arise when a foreign geographic term is similar or identical to a varietal name would be resolved by ATF on a case-by-case basis.

ATF's position on this matter has not changed. Thus, ATF is not removing any grape variety names from the lists in §§ 4.91 and 4.92 merely because they are similar to foreign appellations of origin or contain geographic terms. The following names proposed in § 4.91 are adopted: Alicante Bouschet, Aligoté, Carignane, Early Burgundy, Flame Tokay, Fumé blanc, French Colombard, Green Hungarian, Mataro, Muscat of Alexandria, Muscat Canelli, Naples, Rosette, St. Croix, Saint Macaire, Tinta Madeira, Valdepeñas, and Vivant.

Specific Actions

The EC, France, FEVS, and the INAO supported the proposal to eliminate use of the name Saint Emilion, and to phase out use of the names Franken Riesling, Pineau de la Loire, and Muscat Frontignan.

In Notice No. 749 ATF noted that the name Saint Emilion is not in widespread use in the United States and that this grape is well known by other names. Thus, Saint Emilion is not included in the lists of grape names in §§ 4.91 or 4.92. Trebbiano is listed in § 4.91 as the prime name and Ugni blanc as a synonym for this grape in § 4.92.

The alternative names Pineau de la Loire and Franken Riesling remain in the list at § 4.92(a) to be phased out by 1997 in favor of the names Chenin blanc and Sylvaner.

ATF proposed Muscat blanc as a prime name in § 4.91 while Muscat Frontignan was proposed as an alternative name to be phased out in 1996. Heublein commented that their Beaulieu Vineyard facility has produced Muscat Frontignan since 1920 and stated that it was important to the company to retain this designation. Wine World Estates also commented in favor of retaining Muscat Frontignan as a grape variety name.

ATF agrees that this name has been used in labeling wines for decades in the United States, and it has received a degree of consumer recognition. Nevertheless, ATF finds that the name Muscat Canelli is in far more widespread use at the present time for labeling domestic wines. Moreover, one goal of this rulemaking is to reduce the large number of synonyms in use. Thus, ATF is phasing out the name Muscat Frontignan as proposed in Notice No. 749. However, in view of its longstanding use and the time required to change labels and advertising to Muscat blanc or Muscat Canelli, ATF has decided to permit the use of Muscat Frontignan as a grape variety designation for an additional period of time. Thus, Muscat Frontignan is added to the list of alternative names appearing at § 4.92(b). It may be used as a designation until January 1, 1999.

On review of the comments and literature concerning the proposed prime grape name Pinot St. George, ATF finds that a more accurate name for this grape is Négrette. Moreover, this grape is not a Pinot although it was once misidentified as Pinot noir. Consequently, ATF finds that Pinot St. George is an incorrect name for this grape. As a result, we are removing this name from § 4.91 and replacing it with the prime name Négrette. Pinot St. George is listed in § 4.92(b) as an alternative name to be phased out by January 1, 1999.

On examination of the proposed prime grape name Muscat Pantelleria, ATF finds no evidence that this is a distinct grape variety. Instead, all evidence indicates this is a Muscat wine associated with the island of Pantelleria off of Sicily and well known as ''Moscato di Pantelleria.'' The grape from which Moscato di Pantelleria wines are made is actually the Zibibbo or Muscat of Alexandria grape. Therefore, Muscat Pantelleria is removed from the list of prime grape names in § 4.91 and added to § 4.92(b) as an alternative name for Muscat of Alexandria to be phased out by January 1, 1999.

Type Designations of Varietal Significance

In Notice No. 749, ATF proposed a new category for designating American wine, type designations of varietal significance. These designations apply to wines which are composed of a mixture of specific grape varieties, but which do not contain enough of a single variety to qualify for a varietal designation (75 percent). Nevertheless, these wines demonstrate characteristics of the grape varieties used to produce them and their names imply some grape variety source. For example, under proposed § 4.28, a wine labeled Muscatel is required to derive at least 75 percent of its volume from any Muscat grape source and otherwise conform to the definition for Muscatel at § 4.21(a)(3). Wine designations in § 4.28 may stand alone on a label as the class and type designation of a grape wine. ATF also proposed amending § 4.34 to require that an appellation of origin appear in direct conjunction with these type designations.

Three designations were proposed. In addition to Muscatel, Scuppernong was proposed as an American wine deriving not less than 75 percent of its volume from bronze *Muscadinia rotundifolia* grapes, and Muscadine was proposed as an American wine deriving at least 75 percent of its volume from any *Muscadinia rotundifolia* grape source.

William F. Doering and Wine World Estates commented in favor of these proposals. Since there were no other comments, ATF is adopting § 4.28 containing these designations.

Several respondents requested that Riesling be added to this category to designate a wine made with any ''Riesling'' grapes. ATF is not adopting this comment. See the discussion under ''Riesling issues.''

The EC commented that ATF should not permit variety names for Muscat grapes which incorporate foreign geographic terms. Specifically, they requested that ATF not list the names Muscat Canelli, Muscat du Moulin, Muscat Hamburg, Muscat of Alexandria, Muscat Pantelleria, and Muscat Ottonel. In lieu of these grape variety names, the EC requested that the full name of the grape ''Muscat blanc à petit grains'' be used, or that the general label term ''Muscat'' be permitted.

This final rule authorizes Muscat variety names which incorporate foreign geographic terms since we find these names are recognized as distinct grape varieties. ATF is, however, responding to the EC request by permitting use of the term ''Muscat'' or ''Moscato'' as a labeling designation. ATF believes these terms have widespread consumer recognition as a wine derived from Muscat grapes. We further find that many domestic wine labels exist which use the designations Muscat or Moscato to indicate a Muscat grape source but not a specific Muscat grape variety.

ATF is amending § 4.28 to include Muscat and Moscato as type designations of varietal significance to designate a wine which derives 75 percent of its volume from any Muscat grape source. Wines designated Muscat or Moscato under this section are not required to meet the additional requirements imposed on Muscatel wines by § 4.21(a)(3). An appellation of origin must appear in direct conjunction with the designation Muscat or Moscato.

Proprietary Names and Descriptive Terms

Notice No. 581

In its final report, the Committee noted that certain wines, which to the uninformed would appear to be varietal wines, are in fact, labeled with registered proprietary names. The Committee suggested that ATF should decline to approve such labels in the future, and should phase out existing approvals of these labels. This suggestion was incorporated into Notice No. 581 which proposed that only the approved grape variety name could be used as a varietal designation, without modification. Accordingly, proprietary names and color descriptors would need to be shown separately on the label. This proposal would have prohibited the use of a designation such as ''White Zinfandel,'' but would have permitted a label reading ''Zinfandel'' on one line with the description ''A White Wine Made From Zinfandel Grapes'' on a separate line.

Written Comments

This proposal was the most controversial issue raised in Notice No. 581. Ninety-five respondents objected to it and in doing so, most respondents objected to Notice No. 581 in its entirety.

Consumers and wineries alike commented that the use of color or style descriptors is a significant aid to consumers in selecting wines. Qualifiers such as ''white,'' ''blush,'' ''blanc,'' ''noir,'' ''nouveau,'' or ''rosé'' describe the style of wine and enable consumers to differentiate between wines of the same varietal origin but produced in different styles. Wineries cited the economic importance of ''blush wines.'' Some respondents stated that adoption of this proposal would severely damage the market for Zinfandel grapes. As a consequence, respondents claimed the proposal would have a far reaching and devastating impact on grapegrowers, wineries and consumers. A few respondents cited the lack of need or justification for this proposal, and the lack of consumer confusion over use of such terms.

Similarly, respondents objected to the proposal to prohibit the use of strictly proprietary terms with grape variety names. Proprietary names, unlike descriptive terms, consist of a registered name used to differentiate a winemaker's varietal wine from similar wines made by other winemakers.

Notice No. 749

In view of the preponderance of comments opposing a prohibition on the use of proprietary and descriptive terms in conjunction with varietal designations, ATF did not include this proposal in Notice No. 749. ATF stated that we would take the position that label designations which incorporate proprietary or descriptive terms are misleading if their use results in consumer deception.

Comments to Notice No. 749

Only six respondents commented on the use of proprietary and descriptive terms with grape variety names. The Wine Institute, NABI, Wine World Estates, and Cain Cellars fully supported ATF's position not to prohibit their use. William F. Doering stated that the proposal is sensible, but that some existing proprietary names are misleading and that ATF should deal with these names on a case-by-case basis. The Wine Institute requested that ATF seek to secure acceptance of some of these terms, such as White Zinfandel, on a worldwide basis to assist the international sales of American wines. This aspect of their comment is beyond the scope of this rulemaking.

Professor H.P. Olmo, The University of California, Davis, and a Committee member, objected to the proposal to permit use of descriptive terms with variety names. He stated that to allow such use would nullify the concept of grape variety classification, and would confuse grape variety names with a wine type. He further stated that to permit them would cause the multiplication and falsification of grape variety names and cause the mistrust of grape variety names.

Conclusion

Respondents to this notice as well as to Notice No. 581 have demonstrated the value of proprietary names and descriptive terms in providing the consumer with useful information. ATF further acknowledges the economic importance that wines labeled with descriptive terms such as ''blush'' or ''White Zinfandel'' have to the American wine industry. Finally, ATF is not aware of any consumer confusion or deception resulting from the use of descriptive terms with grape variety names on labels, and ATF does not believe that consumers need to be protected from such labeling.

Thus, ATF will continue to permit the use of descriptive and proprietary names on labels in conjunction with grape variety names. ATF will, however, examine labels to ensure that such terms are not used in a manner that is deceptive or misleading.

Approval of Future Variety Names

One part of the Committee's charter was to recommend guidelines for the wine industry and ATF to follow in determining the appropriateness of names suggested in the future for new grape varieties. The Committee's recommended guidelines were incorporated into Notice No. 581.

As proposed, a letterhead application to the Director would be sufficient to request approval of a new grape variety name. Evidence regarding the name, its use in winemaking, and its cultivation in the United States would be submitted as part of the application. Supporting evidence such as a plant patent, acreage information, and scientific references would also be required.

In addition to outlining the procedure for applying for a grape variety name, the Committee made recommendations regarding suitability of new names. As proposed in Notice No. 581, a new grape variety name could not contain words of geographical significance; could not have been previously used for another variety; could not contain foreign words; could not contain misleading names; and could not contain ''Riesling'' as part of the name.

On the basis on comments made to Notice No. 581, ATF made certain changes in the procedures for approval of new grape variety names. These were incorporated in proposed § 4.93 in Notice No. 749. Since there were no comments directed to this section, it is adopted as proposed.

Paragraph (a) gives the procedure used to petition the Director for approval of a grape variety name. This procedure applies in the case of newly-developed grape varieties as well as for existing varieties which come into use for wine production in the United States.

Paragraph (b) sets forth evidence necessary to document a newly-developed grape variety.

Paragraph (c) sets forth standards for the approval of any grape name. Names will not be approved if they have previously been used for a different grape variety, if they are misleading under § 4.39, or if they contain the word ''Riesling.''

Paragraph (d) gives the Director the authority to make a case-by-case determination whether a requested grape variety name would be misleading. Under this paragraph, the Director has authority to make a determination whether grape variety names containing words of geographic significance, place names, or foreign words are misleading under § 4.39. Variety names found to be misleading would not be approved by the Director. This section does not prohibit use of such terms in grape variety names if their use is found by the Director not to be misleading.

ATF notes that it is not the intent of § 4.93(d) to prohibit the use of established grape variety names which may contain terms of geographic significance, place names, or foreign words, but rather to discourage the use of these kinds of terms in naming new grape varieties. This paragraph applies to grape varieties developed in the United States, but does not apply to existing grape varieties growing in foreign countries and which are introduced into viticultural use in the United States.

Paragraph (e) provides that the Director will publish the list of approved names annually in the Federal Register. This publication will inform consumers and wineries of periodic changes to the list of approved names without formally amending §§ 4.91 or 4.92 every time a name is added. From time to time, ATF will incorporate published changes to the list into §§ 4.91 or 4.92. ATF will not use Federal Register publication as a means to avoid rulemaking on names which may be controversial.

Text of Regulations

List of Prime Names, § 4.91

Section 4.91 contains the list of approved prime grape variety names. These names may be used as the label designation of American wines. Only the prime grape name appears in the alphabetical listing while approved synonyms and spelling variants appear in parentheses following the prime name of the grape. Synonyms and spelling variants may, however, be used standing alone on a label as the designation for American grape wines. For example, ''Riesling'' is a listed as a prime name, with the synonym ''White Riesling'' following in parentheses. Either name may be used as a label designation for wine made from White Riesling grapes.

Section 4.23

Notice No. 749 contained the full text of a new § 4.23, Varietal (grape type) labeling. This text was included because ATF is removing existing § 4.23 which does not apply after December 31, 1982, and replacing it with a new section applicable after that date. This new section formerly appeared at § 4.23a. The only significant change between existing § 4.23a and the new § 4.23 is the incorporation of a reference to new § 4.28, Type designations of varietal significance. The use on a label of a type designation of varietal significance will require an appellation of origin to appear in direct conjunction with it such as ''Georgia Scuppernong'' or ''California Muscatel.''

Section 4.34, Class and Type

This section is amended to permit a type designation of varietal significance listed in § 4.28 to be used as a class and type designation for American wine.

Spelling, Capitalization and Punctuation

The Chicago Wine School submitted a comment correcting certain diacritical marks as they appeared in the list of prime names in § 4.91. Based on this comment, ATF has corrected the diacritical marks for Alvarelhão and Mourvèdre in § 4.91.

With the effective date of this final rule, bottlers are required to spell grape variety names as they appear in the lists in §§ 4.91 and 4.92 since this rulemaking is intended to standardize grape variety names to the maximum extent possible. When a variant spelling is recognized, that spelling appears in parentheses following the prime name. Other variant spellings will not be permitted unless approved by the Director.

Wine World Estates supported ATF's proposal not to require upper or lower case type for grape variety names. This position is reflected in this section which permits wine variety names to appear either capitalized or in lower case, and to appear in any style or type which is conspicuous and meets the minimum type size requirements. Grape variety names may be spelled with or without diacritical marks (umlauts, accent marks, hyphens, or tildes). ATF believes these policies, incorporated in the text of § 4.91, will afford bottlers maximum flexibility when designing labels.

Regulatory Flexibility Act Issues

Thomas P. Kerester, Chief Counsel for Advocacy of the Small Business Administration (''SBA''), submitted two comments to Notice No. 749. The first stated that ATF's certification under the Regulatory Flexibility Act, 5 U.S.C. § 605, did not contain a succinct statement explaining the reasons for the certification as required by the Act. His second comment expressed concerns the SBA found with the proposed rule, and he stated that adoption of a final rule could be disadvantageous to small wineries.

Kerester noted that phasing out of some alternative grape variety names would prohibit their continued use by small wineries. However, some of these names are available for use by winemakers in other nations. Hence, he stated that consumers accustomed to use of these names would seek imported wines bearing the familiar names, to the detriment of large and small domestic wine producers.

Next, he stated that some wineries may be forced to make operational changes in response to the proposals. For some small wineries, he stated this would require a $300,000 to $500,000 investment and require three to five years time. This would disadvantage small wineries which have invested in certain grape varieties, while larger wineries could more easily adapt to the changes.

Finally, Kerester requested that ATF consider the extent to which the changes would inhibit creativity and innovation, and whether the restricting of names would constitute a precedent which could be detrimental to small producers. As a result of these concerns, Kerester suggested that ATF prepare a regulatory flexibility analysis before issuing the final regulations.

ATF does not believe that consumers will be driven to the purchase of imported wines simply because certain grape variety names are not available to domestic wineries. There are thousands of grape variety names used in producing wines worldwide. The current OIV list contains 71 pages of grape names and synonyms which are in use in 27 winemaking nations. ATF believes it would be hopelessly confusing to consumers to permit domestic winemakers to use all available synonyms for labeling wines. Through the Committee's work and this rulemaking effort, ATF has selected the most appropriate prime name for each specific grape used in winemaking; the majority of other names are to be phased out. For the most part, the names being phased out are little used by domestic wineries and have limited consumer recognition. Some alternative names apply to American grape varieties for which there is no imported competition. Furthermore, due to written comments in response to both notices, we have authorized synonyms for some grape varieties because these names are widely used by domestic wineries and have received a degree of consumer acceptance.

ATF has provided a lengthy period for phasing out the use of alternative grape variety names. ATF first proposed their elimination in Notice No. 581, published in September 1986. These names are phased out in 1996. Names newly added to the list of alternative names may be used until 1999. Thus, ATF has provided ample time for the conversion of labeling and advertising to the prime grape variety names listed in § 4.91.

ATF is aware that domestic wineries compete against foreign wineries and that grape variety names used in labeling are a factor in such competition. In this final rule, ATF lists Riesling as a prime grape name. This action is made in part because nearly all imported wines are labeled simply Riesling rather than Johannisberg Riesling or White Riesling. By listing Riesling as a prime name, ATF is placing domestic wineries on an equal footing with foreign wineries in the labeling of this important worldwide varietal wine. ATF has also authorized a few other synonyms such as Pinot Grigio which is the name used in labeling certain wines produced in foreign nations and which compete directly against American wines made from the same grapes.

As a result of these actions, ATF does not believe that large or small domestic wineries will lose sales of varietal wines to foreign wineries simply because certain names are not available for use in labeling.

No other respondents to Notice No. 749 commented that small wineries would need to make any operational changes in response to those proposals, nor did any other respondents allege that small wineries would bear exorbitant costs associated with the phase out of certain grape variety names. In conjunction with one proposal made in Notice No. 581, numerous respondents stated they would incur large costs and suffer market share loss due to the proposed prohibition on use of descriptive or proprietary terms with grape variety names. ATF removed this proposal from Notice No. 749.

Respondents to Notice No. 749 cited only one issue as raising Regulatory Flexibility Act concerns. ATF, however, does not believe that issue is a result of the proposals concerning grape variety names. As documented elsewhere, growers in California have long grown a grape identified as ''Pinot blanc.''

Recent ampelographic evidence reveals that this grape is actually the variety Melon. Thus, these grapes are improperly identified; moreover, the use of the name Pinot blanc for Melon grapes is misleading to consumers since the true Pinot blanc grape is now grown in the United States and is used to label varietal wines. To provide accurate identification of wine for consumers, ''Pinot blanc'' grapes in California must be redesignated with their proper name, Melon or Melon de Bourgogne. Redesignation of these grapes is an enforcement issue and not a result of this rulemaking. While there are costs associated with redesignating these grapes, ATF does not believe that these costs are a result of this final rule.

ATF does not agree with the SBA comment that the changes in this notice would restrict creativity and innovation in labeling wines, to the extent such labeling is truthful and accurate. As noted elsewhere, ATF is not restricting or prohibiting use of descriptive or proprietary terms in conjunction with grape variety names. ATF believes use of these terms is a primary method of innovative labeling of grape variety names.

For the reasons elaborated above, ATF does not believe this final rule will have a substantial economic effect on small entities. Thus, ATF is not preparing an initial or final Regulatory Flexibility Analysis.

Effective Dates

With the effective date of this final rule, the name of a grape variety may not be used as a type designation for an American wine unless it is approved by the Director and listed in §§ 4.91 or 4.92, or listed in an annual Federal Register listing of grape variety names.

Grape variety names appearing on the list of alternative names at § 4.92(a) may be only used as the type designations for American wines bottled before January 1, 1997. Grape variety names appearing at § 4.92(b) may only be used as type designations for American wines bottled before January 1, 1999.

The procedure at § 4.93 for petitioning the Director to approve additional grape variety names is effective 30 days after publication of this final rule.

Regulatory Flexibility Act

It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. As discussed elsewhere in this preamble, this final rule will not impose recordkeeping or reporting burdens on small entities. The standardization of grape variety names will affect labeling and marketing of wines both by large and small wineries, but is not projected to have a substantial economic impact on small wineries. This final rule will not: (1) impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities, or (2) have significant secondary or incidental effects on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required.

Executive Order 12866

It has been determined that this rule is not a significant regulatory action, because (1) It will not have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Paperwork Reduction Act

The collection of information contained in this final rule has been reviewed and approved by the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)) under control number 1512–0513. The estimated annual reporting and/or recordkeeping burden is 4 hours. Estimated total annual burden per record-keeper is 2 hours. The estimated number of respondents is two. The estimated annual frequency of responses is one.

This final rule creates a new letterhead notice to be used by respondents in petitioning ATF to add grape variety names to the list of approved prime grape names in § 4.91. The collection of information in this regulation is in the following section: 27 CFR 4.93. This information is used by ATF in order to verify that the grape variety name petitioned for is the name of the identified grape, that the grape is a available for viticultural use in the United States, and that the name to be used will not be misleading or deceptive. The likely respondents are businesses and other for-profit institutions, non-profit institutions, and small businesses or organizations.

In response to Notice No. 749, no comments regarding the proposed information collection requirement were received either by the Chief, Information Programs Branch, Bureau of Alcohol, Tobacco and Firearms, or by the OMB Desk Officer for the Bureau of Alcohol, Tobacco and Firearms.

Comments concerning the accuracy of this burden estimate should be directed to the Chief, Information Programs Branch, Room 3400, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW, Washington, DC 20226, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503; Attention: Desk Officer for the Bureau of Alcohol, Tobacco and Firearms.

Drafting Information

The principal author of this document is Charles N. Bacon, Wine, Beer, and Spirits Regulations Branch, Regulatory Enforcement, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 4

Advertising, Consumer protection, Customs duties and inspections, Imports, Labeling, Packaging and containers, Wine.

Authority and Issuance

Accordingly, 27 CFR Part 4, Labeling and Advertising of Wine, is amended as follows:

Paragraph 1. The authority citation for Part 4 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. 2. Section 4.23 is revised to read as follows:

§ 4.23 Varietal (grape type) labeling.

(a) *General.* The names of one or more grape varieties may be used as the type designation of a grape wine only if the wine is also labeled with an appellation of origin as defined in § 4.25a.

(b) *One variety.* Except as provided in paragraph (c) of this section, the name of a single grape variety may be used as the type designation if not less than 75 percent of the wine is derived from grapes of that variety, the entire 75 percent of which was grown in the labeled appellation of origin area.

(c) *Exceptions.* (1) Wine made from any *Vitis labrusca* variety (exclusive of hybrids with *Vitis labrusca* parentage) may be labeled with the variety name if:

(i) Not less than 51 percent of the wine is derived from grapes of the named variety;

(ii) The statement ''contains not less than 51 percent (name of variety)'' is shown on the brand label, back label, or a separate strip label, (except that this statement need not appear if 75 percent or more of the wine is derived from grapes of the named variety); and

(iii) The entire qualifying percentage of the named variety was grown in the labeled appellation of origin area.

(2) Wine made from any variety of any species found by the Director upon appropriate application to be too strongly flavored at 75 percent minimum varietal content may be labeled with the varietal name if:

(i) Not less than 51 percent of the wine is derived from grapes of that variety;

(ii) The statement ''contains not less than 51 percent (name of variety)'' is shown on the brand label, back label, or a separate strip label (except that this statement need not appear if 75 percent or more of the wine is derived from grapes of the named variety); and

(iii) The entire qualifying percentage of the named variety was grown in the labeled appellation of origin area.

(d) *Two or more varieties.* The names of two or more grape varieties may be used as the type designation if:

(1) All of the grapes used to make the wine are of the labeled varieties;

(2) The percentage of the wine derived from each variety is shown on the label (with a tolerance of plus or minus 2 percent); and

(3)(i) If labeled with a multicounty appellation of origin, the percentage of the wine derived from each variety from each county is shown on the label; or

(ii) If labeled with a multistate appellation of origin, the percentage of the wine derived from each variety from each state is shown on the label.

(e) *List of approved variety names.* Effective February 7, 1996, the name of a grape variety may be used as a type designation for an American wine only if that name has been approved by the Director. A list of approved grape variety names appears in Subpart J of this part.

§ 4.23a [Removed]

Par. 3. Section 4.23a is removed.

Par. 4. Subpart C is amended by adding § 4.28 to read as follows:

§ 4.28 Type designations of varietal significance.

The following are type designations of varietal significance for American wine. These names may be used as type designations for American wines only if the wine is labeled with an appellation of origin as defined in § 4.25a.

(a) *Muscadine.* An American wine which derives at least 75 percent of its volume from *Muscadinia rotundifolia* grapes.

(b) *Muscatel.* An American wine which derives its predominant taste, aroma, characteristics and at least 75 percent of its volume from any Muscat grape source, and which meets the requirements of § 4.21(a)(3).

(c) *Muscat or Moscato.* An American wine which derives at least 75 percent of its volume from any Muscat grape source.

(d) *Scuppernong.* An American wine which derives at least 75 percent of its volume from bronze *Muscadinia rotundifolia* grapes.

Par. 5. Section 4.34 is amended by revising the second sentence of paragraph (a); by revising paragraph (b)(1); by redesignating paragraphs (b) (2), (3), and (4), as paragraphs (b) (3), (4), and (5), respectively; and by adding a new paragraph (b)(2), to read as follows:

§ 4.34 Class and type.

(a) * * * In the case of still grape wine there may appear, in lieu of the class designation, any varietal (grape type) designation, type designation of varietal significance, semigeneric geographic type designation, or geographic distinctive designation, to which the wine may be entitled. * * *

(b) * * *

(1) A varietal (grape type) designation is used under the provisions of § 4.23;

(2) A type designation of varietal significance is used under the provisions of § 4.28;

* * * * *

Par. 6. Subpart J is added to read as follows:

Subpart J—American Grape Variety Names

Sec.
4.91 List of approved prime names.
4.92 Alternative names permitted for temporary use.
4.93 Approval of grape variety names.

Subpart J—American Grape Variety Names

§ 4.91 List of approved prime names.

The following grape variety names have been approved by the Director for use as type designations for American wines. When more than one name may be used to identify a single variety of grape, the synonym is shown in parentheses following the prime grape names. Grape variety names may appear on labels of wine in upper or in lower case, and may be spelled with or without the hyphens or diacritic marks indicated in the following list.

Agwam
Albemarle
Aleatico
Alicante Bouschet
Aligoté
Alvarelhão
Arneis
Aurore
Bacchus
Baco blanc
Baco noir
Barbera
Beacon
Beclan
Bellandais
Beta
Black Pearl
Blanc Du Bois
Blue Eye
Bonarda
Bountiful
Burdin 4672
Burdin 5201
Burdin 11042
Burgaw
Burger
Cabernet franc
Cabernet Pfeffer
Cabernet Sauvignon
Calzin
Campbell Early (*Island Belle*)
Canada Muscat
Captivator
Carignane
Carlos
Carmenère
Carmine
Carnelian
Cascade
Castel 19–637
Catawba
Cayuga White
Centurion
Chambourcin
Chancellor
Charbono
Chardonel
Chardonnay
Chasselas doré
Chelois
Chenin blanc
Chief
Chowan
Cinsaut (*Black Malvoisie*)
Clairette blanche
Clinton
Colombard (*French Colombard*)
Colobel
Cortese
Corvina
Concord
Conquistador
Couderc noir
Cowart
Creek
Cynthiana (*Norton*)
Dearing
De Chaunac
Delaware
Diamond
Dixie
Dolcetto
Doreen
Dulcet
Durif

Dutchess
Early Burgundy
Early Muscat
Edelweiss
Eden
Ehrenfelser
Ellen Scott
Elvira
Emerald Riesling
Feher Szagos
Fernão Pires
Fern Munson
Flame Tokay
Flora
Florental
Folle blanche
Fredonia
Freisa
Fry
Furmint
Gamay noir
Garronet
Gewürztraminer
Gladwin 113
Glennel
Gold
Golden Isles
Golden Muscat
Grand Noir
Green Hungarian
Grenache
Grignolino
Grillo
Gros Verdot
Helena
Herbemont
Higgins
Horizon
Hunt
Iona
Isabella
Ives
James
Jewell
Joannes Seyve 12–428
Joannes Seyve 23–416
Kerner
Kay Gray
Kleinberger
LaCrosse
Lake Emerald
Lambrusco
Landal
Landot noir
Lenoir
Léon Millot
Limberger (Lemberger)
Madeline Angevine
Magnolia
Magoon
Malbec
Malvasia bianca
Maréchal Foch
Marsanne
Melody
Melon de Bourgogne (Melon)
Merlot
Meunier (Pinot Meunier)
Mish
Mission
Missouri Riesling
Mondeuse (Refosco)
Montefiore
Moore Early
Morio-Muskat
Mourvèdre (Mataro)
Müller-Thurgau
Münch
Muscadelle
Muscat blanc (Muscat Canelli)
Muscat du Moulin
Muscat Hamburg (Black Muscat)
Muscat of Alexandria
Muscat Ottonel
Naples
Nebbiolo
Négrette
New York Muscat
Niagara
Noah
Noble
Norton (Cynthiana)
Ontario
Orange Muscat
Palomino
Pamlico
Pedro Ximenes
Petit Verdot
Petite Sirah
Peverella
Pinotage
Pinot blanc
Pinot gris (Pinot Grigio)
Pinot noir
Precoce de Malingre
Pride
Primitivo
Rayon d'Or
Ravat 34
Ravat 51 (Vignoles)
Ravat noir
Redgate
Regale
Riesling (White Riesling)
Rkatziteli (Rkatsiteli)
Roanoke
Rosette
Roucaneuf
Rougeon
Roussanne
Royalty
Rubired
Ruby Cabernet
St. Croix
Saint Macaire
Salem
Salvador
Sangiovese
Sauvignon blanc (Fumé blanc)
Scarlet
Scheurebe
Sémillon
Sereksiya
Seyval (*Seyval blanc*)
Siegerrebe
Siegfried
Southland
Souzão
Steuben
Stover
Sugargate
Sultanina (*Thomspon Seedless*)
Summit
Suwannee
Sylvaner
Symphony
Syrah (*Shiraz*)
Swenson Red
Tarheel
Taylor
Tempranillo (*Valdepeñas*)
Teroldego
Thomas
Thompson Seedless (*Sultanina*)
Tinta Madeira
Tinto cão
Tocai Friulano
Topsail
Touriga
Traminer
Trousseau
Trousseau gris
Ugni blanc (*Trebbiano*)
Valdiguié
Valerien
Van Buren
Veeblanc
Veltliner
Ventura
Verdelet
Verdelho
Vidal blanc
Villard blanc
Villard noir
Vincent
Viognier
Vivant
Welsch Rizling
Watergate
Welder
Yuga
Zinfandel

§ 4.92 Alternative names permitted for temporary use.

The following alternative names shown in the left column may be used as the type designation for American wine in lieu of the prime name of the grape variety shown in the right column. Alternative names listed in the left column may only be used for wine bottled prior to the date indicated.

(a) *Wines bottled prior to January 1, 1997.*

Alternative Name/Prime Name

Baco 1—Baco noir
Baco 22A—Baco blanc
Bastardo—Trousseau
Black Spanish—Lenoir
Burdin 7705—Florental
Cayuga—Cayuga White
Chancellor noir—Chancellor
Chasselas—Chasselas doré
Chevrier—Sémillon
Chelois noir—Chelois

Couderc 71–20—Couderc noir
Couderc 299–35—Muscat du Moulin
Foch—Maréchal Foch
Franken Riesling—Sylvaner
Gutedel—Chasselas doré
Ives Seedling—Ives
Jacquez—Lenoir
Joannes Seyve 26–205—Chambourcin
Landot 244—Landal
Landot 4511—Landot noir
Millot—Leon Millot
Moore's Diamond—Diamond
Norton Seedling—Norton
Pfeffer Cabernet—Cabernet Pfeffer
Pineau de la Loire—Chenin blanc
Pinot Chardonnay—Chardonnay
Ravat 262—Ravat noir
Ruländer—Pinot gris
Seibel 128—Salvador
Seibel 1000—Rosette
Seibel 4986—Rayon d'Or
Seibel 5279—Aurore
Seibel 5898—Rougeon
Seibel 7053—Chancellor
Seibel 8357—Colobel
Seibel 9110—Verdelet
Seibel 9549—De Chaunac
Seibel 10878—Chelois
Seibel 13053—Cascade
Seibel 14596—Bellandais
Seyve-Villard 5–276—Seyval
Seyve-Villard 12–309—Roucaneuf
Seyve-Villard 12–375—Villard blanc
Seyve-Villard 18–283—Garronet
Seyve-Villard 18–315—Villard noir
Seyve-Villard 23–410—Valerien
Sweetwater—Chasselas doré
Verdelet blanc—Verdelet
Vidal 256—Vidal blanc
Virginia Seedling—Norton
Wälschriesling—Welsch Rizling
Welschriesling—Welsch Rizling

(b) *Wines bottled prior to January 1, 1999.*

Alternative Name/Prime Name

Cabernet—Cabernet Sauvignon
Grey Riesling—Trousseau gris
Johannisberg Riesling—Riesling
Muscat Frontignan—Muscat blanc
Muscat Pantelleria—Muscat of Alexandria
Napa Gamay—Valdiquié
Pinot Saint George—Négrette
Sauvignon vert—Muscadelle

§ 4.93 Approval of grape variety names.

(a) Any interested person may petition the Director for the approval of a grape variety name. The petition may be in the form of a letter and should provide evidence of the following—

(1) acceptance of the new grape variety,

(2) the validity of the name for identifying the grape variety,

(3) that the variety is used or will be used in winemaking, and

(4) that the variety is grown and used in the United States.

(b) For the approval of names of new grape varieties, documentation submitted with the petition to establish the items in paragraph (a) of this section may include—

(1) reference to the publication of the name of the variety in a scientific or professional journal of horticulture or a published report by a professional, scientific or winegrowers' organization,

(2) reference to a plant patent, if so patented, and

(3) information pertaining to the commercial potential of the variety, such as the acreage planted and its location or market studies.

(c) The Director will not approve a grape variety name if:

(1) The name has previously been used for a different grape variety;

(2) The name contains a term or name found to be misleading under § 4.39; or

(3) The name of a new grape variety contains the term ''Riesling.''

(d) For new grape varieties developed in the United States, the Director may determine if the use of names which contain words of geographical significance, place names, or foreign words are misleading under § 4.39. The Director will not approve the use of a grape variety name found to be misleading.

(e) The Director shall publish the list of approved grape variety names at least annually in the Federal Register.

(Approved by the Office of Management and Budget under Control Number 1512–0513)

Signed: January 5, 1995.

Daniel R. Black,

Acting Director.

Approved: November 24, 1995.

John P. Simpson,

Deputy Assistant Secretary (Regulatory, Tariff & Trade Enforcement).

Editorial Note: This document was received at the Office of the Federal Register on January 2, 1996.

[FR Doc. 96–148 Filed 1–5–96; 8:45 am]

BILLING CODE 4810–31–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Parts 40b and 234

Conduct on the Pentagon Reservation

AGENCY: Office of the Secretary, DoD.

ACTION: Interim final rule with request for comments.

SUMMARY: This document revises DoD policy concerning conduct on the Pentagon Reservation. The revisions are intended to ensure that DoD regulations are consistent with the statutory authority on which they are based, and to promote the safer, more efficient, and more secure operation of the Pentagon Reservation.

DATES: This rule is effective January 8, 1996. Comments are requested by March 8, 1996.

ADDRESSES: Forward comments to Washington Headquarters Services, Office of General Counsel, 1155 Defense Pentagon Room 1D197, Washington, DC 20301–1155.

FOR FURTHER INFORMATION CONTACT:
Thomas R. Brooke, (703) 693–7374.

SUPPLEMENTARY INFORMATION: The current regulations governing conduct on the Pentagon Reservation were promulgated following the transfer of control of the Pentagon Reservation from the General Services Administration to the Department of Defense. Based on enforcement experience gained since that time, the Department of Defense now seeks to revise those regulations to ensure their consistency with the statutory authority on which they are based, and to promote the safer, more efficient, and more secure operation of the Pentagon Reservation.

Executive Order 12866, ''Regulatory Planning and Review''

This rule is not a significant rule as defined under section 3(f)(1) through 3(f)(4) of Executive Order 12866.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. 601)

This rule will not have a significant economic impact on a substantial number of small entities because it affects only those entities and persons who are on the Pentagon Reservation.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Ch. 44)

It has been certified that this rule does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1980.

List of Subjects in 32 CFR Parts 40b and 234

Alcohol abuse, Drug testing; Federal buildings and facilities, Security measures, Traffic regulations.

Accordingly, chapter I of title 32 of the Code of Federal Regulations, under the authority of 10 U.S.C. 301, is amended by removing part 40b and adding part 234 to read as follows:

PART 234—CONDUCT ON THE PENTAGON RESERVATION

Authority: 10 U.S.C. 131 and 2674(c).s

§ 234.1 Definitions.

As used in this part:

Authorized person. An employee or agent of the Defense Protective Service, or any other Department of Defense employee or agent who has delegated authority to enforce the provisions of this part.

Firearm. A loaded or unloaded pistol, rifle, shotgun, or other weapon which is designed to, or may be readily converted to, expel a projectile by the ignition of a propellant.

Operator. A person who operates, drives, controls, otherwise has charge of, or is in actual physical control of a mechanical mode of transportation or any other mechanical equipment.

Pentagon Reservation. Area of land and improvements thereon, located in Arlington, Virginia, on which the Pentagon Office Building, Federal Building Number 2, the Pentagon heating and sewage treatment plants, and other related facilities are located, including all roadways, walkways, waterways, and all areas designated for the parking of vehicles.

Permit. A written authorization to engage in uses or activities that are otherwise prohibited, restricted, or regulated.

Possession. Exercising direct physical control or dominion, with or without ownership, over property.

State law. The applicable and nonconflicting laws, statutes, regulations, ordinances, and codes of the state(s) and other political subdivision(s) within whose exterior boundaries the Pentagon Reservation or a portion thereof is located.

Traffic. Pedestrians, ridden or herded animals, vehicles, and other conveyances, either singly or together, while using any road, path, street, or other thoroughfare for the purposes of travel.

Vehicle. Any vehicle that is self-propelled or designed for self-propulsion, any motorized vehicle, and any vehicle drawn by or designed to be drawn by a motor vehicle, including any device in, upon, or by which any person or property is or can be transported or drawn upon a highway, hallway, or pathway; to include any device moved by human or animal power, whether required to be licensed in any state or otherwise.

Weapons. Any firearm, compressed gas, or spring-powered pistol or rifle, bow and arrow, crossbow, blowgun, spear gun, hand-thrown spear, slingshot, irritant gas device, explosive device, or any other implement designed to discharge missiles; or a weapon, device, instrument, material, or substance, animate or inanimate, that is used for or is readily capable of, causing death or serious bodily injury, including any weapon the possession of which is prohibited under the laws of the state in which the Pentagon Reservation or portion thereof is located; except that such term does not include a pocket knife with a blade of less than 2½ inches in length.

§ 234.2 Applicability.

The provisions of this part apply to all areas, lands, and waters on or adjoining the Pentagon Reservation and under the jurisdiction of the United States, and to all persons entering in or on the property. They supplement those penal provisions of Title 18, United States Code, relating to crimes and criminal procedures and those provisions of State law that are federal criminal offenses by virtue of the Assimilative Crimes Act, 18 U.S.C. 13.

§ 234.3 State law applicable.

Unless specifically addressed by regulations in this part, traffic and the use of vehicles within the Pentagon Reservation are governed by State law.

§ 234.4 Admission to property.

(a) Access to the Pentagon Reservation or facilities thereon shall be restricted in accordance with Department of Defense Administrative Instruction Number 30 [1] in order to ensure the orderly and secure conduct of Department of Defense business. Admission to facilities or restricted areas shall be limited to employees and other persons with proper authorization.

(b) All persons entering or upon the Pentagon Reservation shall, when required and/or requested, display identification to authorized persons.

(c) All packages, briefcases, and other containers brought into, on, or being removed from facilities or restricted areas on the Pentagon Reservation are subject to inspection and search by authorized persons. Persons entering on facilities or restricted areas who refuse to permit an inspection and search will be denied entry.

(d) Any person or organization desiring to conduct activities anywhere on the Pentagon Reservation shall file an application for permit with the applicable Building Management Office. Such application shall be made on a form provided by the Department of Defense and shall be submitted in the manner specified by the Department of Defense. Violation of the conditions of a permit issued in accordance with this section is prohibited and may result in the loss of access to the Pentagon Reservation.

§ 234.5 Trespassing.

(a) Trespassing, entering, or remaining in or upon property not open to the public, except with the express invitation or consent of the person or persons having lawful control of the property, is prohibited. Failure to obey an order to leave under paragraph (b) of this section, or reentry upon property after being ordered to leave or not reenter under paragraph (b) of this section, is also prohibited.

(b) Any person who violates a Department of Defense rule or regulation may be ordered to leave the Pentagon Reservation by an authorized person. A violator's reentry may also be prohibited.

§ 234.6 Interfering with agency functions.

The following are prohibited:

(a) *Interference.* Threatening, resisting, intimidating, or intentionally interfering with a government employee or agent engaged in an official duty, or on account of the performance of an official duty.

(b) *Violation of a lawful order.* Violating the lawful order of a government employee or agent authorized to maintain order and control public access and movement during fire fighting operations, search and rescue operations, law enforcement actions, and emergency operations that involve a threat to public safety or government resources, or other activities where the control of public movement

[1] Forward written requests for copies of the document to the Directorate for Freedom of Information and Security Review, Rm 2C757, Pentagon, Washington DC 20301–1400.

and activities is necessary to maintain order and public health or safety.

(c) *False information*. Knowingly giving a false or fictitious report or other false information:

(1) To an authorized person investigating an accident or violation of law or regulation; or

(2) On an application for a permit.

(d) *False report*. Knowingly giving a false report for the purpose of misleading a government employee or agent in the conduct of official duties, or making a false report that causes a response by the government to a fictitious event.

§ 234.7 Disorderly conduct.

A person commits disorderly conduct when, with intent to cause public alarm, nuisance, jeopardy, or violence, or knowingly or recklessly creating a risk thereof, such person commits any of the following prohibited acts:

(a) Engages in fighting or threatening, or in violent behavior.

(b) Uses language, an utterance, or gesture, or engages in a display or act that is obscene, physically threatening or menacing, or done in a manner that is likely to inflict injury or incite an immediate breach of the peace.

(c) Makes noise that is unreasonable, considering the nature and purpose of the actor's conduct, location, time of day or night, and other factors that would govern the conduct of a reasonably prudent person under the circumstances.

(d) Creates or maintains a hazardous or physically offensive condition.

(e) Impedes or threatens the security of persons or property, or which disrupts the performance of official duties by Department of Defense employees, or which obstructs the use of areas such as entrances, foyers, lobbies, corridors, concourses, offices, elevators, stairways, roadways, driveways, walkways, or parking lots.

§ 234.8 Preservation of property.

The destruction of, or damage to, private property is prohibited. The creation of any hazard to persons or things, the throwing of articles of any kind from or at buildings or persons, improper disposal of rubbish, and open fires are prohibited.

§ 234.9 Explosives.

(a) Using, possessing, storing, or transporting explosives, blasting agents or explosive materials is prohibited, except pursuant to the terms and conditions of a permit issued by the applicable Building Management Office. When permitted, the use, possession, storage and transportation shall be in accordance with applicable Federal and State laws.

(b) Using or possessing fireworks or firecrackers is prohibited, except in designated areas under such conditions as may be established by the applicable Building Management Office or pursuant to the terms and conditions of a permit issued by the applicable Building Management Office, and in accordance with applicable State law.

(c) Violation of the conditions established by the applicable Building Management Office or of the terms and conditions of a permit issued in accordance with this section is prohibited and may result in the loss of access to the Pentagon Reservation.

§ 234.10 Weapons.

(a) Except as otherwise authorized under this section, the following are prohibited:

(1) Possessing a weapon.

(2) Carrying a weapon.

(3) Using a weapon.

(b) This section does not apply to any agency or Department of Defense component that has received prior written approval from the Defense Protective Service to carry, transport, or use a weapon in support of a security or law enforcement purpose while on the Pentagon Reservation.

§ 234.11 Alcoholic beverages and controlled substances.

(a) *Alcoholic beverages.*

The use of alcoholic beverages or the possession of an open container of an alcoholic beverage within the Pentagon Reservation is prohibited unless authorized by the Director, Washington Headquarters Services, or his designee, or the Heads of the Military Department, or their designees. Written notice of such authorizations shall be provided to the Defense Protective Service.

(b) *Controlled substances.*

The following are prohibited:

(1) The delivery of a controlled substance, except when distribution is made by a Licensed physician or pharmacist in accordance with applicable law. For the purposes of this paragraph, delivery means the actual, attempted, or constructive transfer of a controlled substance.

(2) The possession of a controlled substance, unless such substance was obtained by the possessor directly from, or pursuant to a valid prescription or order by, a licensed physician or pharmacist, or as otherwise allowed by Federal or State law.

(c) Presence on the Pentagon Reservation when under the influence of alcohol, a drug, or a controlled substance to a degree that may endanger oneself or another person, or damage property is prohibited.

§ 234.12 Restriction on animals.

Animals, except guide dogs for persons with disabilities, shall not be brought upon the Pentagon Reservation for other than official purposes.

§ 234.13 Soliciting, vending, and debt collection.

Commercial or political soliciting, vending of all kinds, displaying or distributing commercial advertising, collecting private debts or soliciting alms upon the Pentagon Reservation is prohibited. This does not apply to:

(a) National or local drives for funds for welfare, health, or other purposes as authorized by 5 CFR parts 110 and 950, Solicitation of Federal Civilian and Uniformed Services Personnel for Contributions to Private Voluntary Organizations, issued by the U.S. Office of Personnel Management under Executive Order 12353, 3 CFR, 1982 Comp., p. 139, as amended.

(b) Personal notices posted on authorized bulletin boards, and in compliance with building rules governing the use of such authorized bulletin boards, advertising to sell or rent property of Pentagon Reservation employees or their immediate families.

(c) Solicitation of labor organization membership or dues authorized by the Department of Defense under the Civil Service Reform Act of 1978.

(d) Licensees, or their agents and employees, with respect to space licensed for their use.

(e) Solicitations conducted by organizations composed of civilian employees of the Department of Defense or members of the uniformed services among their own members for organizational support or for the benefit of welfare funds for their members, after compliance with the requirements of § 234.4(d).

§ 234.14 Posting of materials.

Posting or affixing materials, such as pamphlets, handbills, or fliers on the Pentagon Reservation is prohibited except as provided by § 234.13(b) or when conducted as part of activities approved by the applicable Building Management Office under § 234.4(d).

§ 234.15 Use of visual recording devices.

The use of cameras or other visual recording devices in restricted areas or in internal offices must be approved by the Department of Defense component occupying the space. Photographs for advertising or commercial purposes may only be taken with the permission of the Office of the Assistant to the Secretary of Defense for Public Affairs.

§ 234.16 Gambling.

Gambling in any form, or the operation of gambling devices, is prohibited. This prohibition shall not apply to the vending or exchange of chances by licensed blind operators of vending facilities for any lottery set forth in a State law and authorized by the provisions of the Randolph-Sheppard Act (20 U.S.C. 107 *et seq.*).

§ 234.17 Vehicles and traffic safety.

(a) *Open container of alcoholic beverage.*

(1) Each person within a vehicle is responsible for complying with the provisions of this section that pertain to carrying an open container. The operator of a vehicle is the person responsible for complying with the provisions of this section that pertain to the storage of an open container.

(2) Carrying or storing a bottle, can, or other receptacle containing an alcoholic beverage that is open or has been opened, or whose seal is broken, or the contents of which have been partially removed, within a vehicle on the Pentagon Reservation is prohibited.

(3) This section does not apply to:

(i) An open container stored in the trunk of a vehicle or, if a vehicle is not equipped with a trunk, to an open container stored in some other portion of the vehicle designed for the storage of luggage and not normally occupied by or readily accessible to the operator or passengers; or

(ii) An open container stored in the living quarters of a motor home or camper.

(4) For the purpose of paragraph (a)(3)(i) of this section, a utility compartment or glove compartment is deemed to be readily accessible to the operator and passengers of a vehicle.

(b) *Operating under the influence of alcohol, drugs, or controlled substances.*

(1) Operating or being in actual physical control of a vehicle is prohibited while:

(i) Under the influence of alcohol, a drug or drugs, a controlled substance or controlled substances, or any combination thereof, to a degree that renders the operator incapable of safe operation; or

(ii) The alcohol concentration in the operator's blood or breath is 0.08 gram or more of alcohol per 100 milliliters of blood or 0.08 gram or more of alcohol per 210 liters of breath. Provided, however, that if State law that applies to operating a vehicle while under the influence of alcohol establishes more restrictive limits of alcohol concentration in the operator's blood or breath, those limits supersede the limits specified in this paragraph (b).

(2) The provisions of paragraph (b)(1) of this section shall also apply to an operator who is or has been legally entitled to use alcohol or another drug.

(3) *Tests.*

(1) At the request or direction of an authorized person who has probable cause to believe that an operator of a vehicle within the Pentagon Reservation has violated a provision of paragraph (b)(1) of this section, the operator shall submit to one or more tests of the blood, breath, saliva, or urine for the purpose of determining blood alcohol, drug, and controlled substance content.

(ii) Refusal by an operator to submit to a test is prohibited and may result in detention and citation by an authorized person. Proof of refusal may be admissible in any related judicial proceeding.

(iii) Any test or tests for the presence of alcohol, drugs, and controlled substances shall be determined by and administered at the direction of an authorized person.

(iv) Any test shall be conducted by using accepted scientific methods and equipment of proven accuracy and reliability operated by personnel certified in its use.

(4) *Presumptive levels.*

(i) The results of chemical or other quantitative tests are intended to supplement the elements of probable cause used as the basis for the arrest of an operator charged with a violation of this section. If the alcohol concentration in the operator's blood or breath at the time of the testing is less than the alcohol concentration specified in paragraph (b)(1)(ii) of this section, this fact does not give rise to any presumption that the operator is or is not under the influence of alcohol.

(ii) The provisions of paragraph (b)(4)(i) of this section are not intended to limit the introduction of any other competent evidence bearing upon the question of whether the operator, at the time of the alleged violation, was under the influence of alcohol, a drug or drugs, or a controlled substance or controlled substances, or any combination thereof.

§ 234.18 Enforcement of parking regulations.

Parking regulations for the Pentagon Reservation shall be enforced in accordance with Department of Defense Administrative Instruction Number 88 [2] and State law. A vehicle parked in any location without authorization, or parked contrary to the directions of posted signs or markings, shall be subject to removal at the owner's risk and expense, in addition to any penalties imposed. The Department of Defense assumes no responsibility for the payment of any fees or costs related to such removal which may be charged to the owner of the vehicle by the towing organization. This section may be supplemented from time to time with the approval of the Director, Washington Headquarters Services, or his designee, by the issuance and posting of such parking directives as may be required, and when so issued and posted such directive shall have the same force and effect as if made a part thereof.

[2] See footnote 1 to § 234.4(a).

§ 234.19 Penalties and effect on other laws.

(a) Whoever shall be found guilty of willfully violating any rule or regulation enumerated in this part is subject to the penalties imposed by Federal law for the commission of a Class B misdemeanor offense.

(b) Whoever violates any rule or regulation enumerated in this part is liable to the United States for a civil penalty of not more than $1,000.

(c) Nothing in this part shall be construed to abrogate any other Federal laws.

Dated: January 3, 1996.

L.M. Bynum,

Alternate OSD Federal Register Officer, Department of Defense.

[FR Doc. 96–202 Filed 1–5–96; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD07–95–073]

RIN 2115–AE84

Regulated Navigation Area Regulations; Fort Pierce, FL

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary regulated navigation area at the Peter P. Cobb bridge in Fort Pierce, Florida. This regulated navigation area is needed to protect all vessels from a safety hazard created by damage to the Peter P. Cobb bridge and associated debris in the surrounding area. Entry into this zone is prohibited unless authorized by the Captain of the Port, Miami, Florida.

EFFECTIVE DATES: This regulation is effective at 8 p.m. on December 27, 1995 and terminates at 12 p.m. on February 24, 1996.

FOR FURTHER INFORMATION CONTACT:

BMC J.L. Belk, USCG Marine Safety Office, Miami, Florida at (305) 536–5693.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this regulation are BMC J.L. Belk, Project Officer, USCG Marine Safety Office, and LTJG J. Diaz, Project Attorney, Seventh Coast Guard District Legal Office.

Background and Purpose

At approximately 4 p.m. on November 7, 1995, a vessel collided with the east side of the fender system of the Peter P. Cobb Bridge (also known as the South Bridge) on the Indian River South Section at Fort Pierce, Florida. The center section of the east fender system was destroyed leaving the bridge support piling unprotected. The concrete pilings of the center section of the fender system extend into the channel, creating a safety hazard. Construction crews are replacing the fender system which was destroyed.

A regulated navigation area has been established on the Indian River South Section which includes the area under the main span of the bridge extending 100 feet either side of the bridge within the main channel. This area has the following restrictions and conditions for vessel traffic.

All barge traffic must obtain permission from the Captain of the Port or his designated representative prior to transiting. Any barges allowed to transit the zone by the Captain of the Port will be required to meet the following conditions: the barge must be assisted by two tugs made fast fore and aft; tugs must be of adequate horsepower to fully maneuver the barge; and the zone shall be transited by barge traffic at slack water only. All other vessel traffic shall stay clear of the damaged section of the bridge and the repair work underway.

In accordance with 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. Publication of notice of proposed rulemaking and delay of effective date would be contrary to public interest because immediate action is necessary to prevent vessels from colliding with the bridge support pilings, causing potential danger to the public.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT 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 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 reasons set forth in the above Regulatory Evaluation, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

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

Federalism

This action has been analyzed under the principles and criteria contained in executive order 12612 and has determined that the rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of this action and has determined pursuant to Section 2.B.2.e(34)(g) of Commandant Instruction M16475.1B that this action is categorically excluded from further environmental documentation. A categorical exclusion checklist and categorical exclusion determination have been completed and are available for inspection and copying.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (waters), Reporting and recordkeeping requirements, Safety measures, Waterways.

Regulations

For the reasons set out in the preamble the Coast Guard amends 33 CFR Part 165 as follows:

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; and 49 CFR 1.46.

2. A new temporary § 165.T07–073 is added to read as follows:

§ 165.T07–073 Regulated Navigation Area; Indian River South Section, Peter P. Cobb Bridge, Fort Pierce, FL.

(a) *Location:* The following area is a regulated navigation area: All waters under the main bridge span extending 100 feet either side of the bridge within the main channel.

(b) *Regulations:* In accordance with general regulations in § 165.11 of this part, no vessel may operate within the regulated navigation area contrary to this regulation. All barge traffic must obtain permission from the Captain of the Port or his designated representative prior to transiting. Any barges allowed to transit the zone by the Captain of the Port will be required to meet the following conditions: the barge must be assisted by two tugs made fast fore and aft; tugs must be of adequate horsepower to fully maneuver the barge; and the zone shall be transited by barge traffic at slack water only. All other vessel traffic shall stay clear of the damaged section of the bridge and repair work underway. The Captain of the Port will notify the public of changes in the status of this zone by Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz).

(c) *Effective dates:* This section is effective at 8 p.m. on December 27, 1995 and terminates at 12 p.m. on February 24, 1996.

Dated: December 27, 1995.

Roger T. Rufe, Jr.,

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

[FR Doc. 96–205 Filed 1–5–96; 8:45 am]

BILLING CODE 4910–14–M

Proposed Rules

Federal Register

Vol. 61, No. 5

Monday, January 8, 1996

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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 330, 333, and 335

RIN 3206–AH25

Agency Funding for Federal Employment Information

AGENCY: Office of Personnel Management.

ACTION: Proposed rule with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing proposed regulations requiring each agency to pay a fee for its share of the cost of providing employment information through OPM to Federal employees and the public. The regulations implement a permanent statutory provision of Public Law 104–52, which authorizes OPM to charge fees to agencies to pay the cost of providing Federal employment information and related services.

DATES: Written comments will be considered if received on or before February 7, 1996.

ADDRESSES: Send or deliver written comments to Leonard R. Klein, Associate Director for Employment, Office of Personnel Management, Room 6F08, 1900 E Street, NW., Washington, DC 20415 (FAX 202–606–5049).

FOR FURTHER INFORMATION CONTACT: Richard Whitford on 202–606–2525, TDD 202–606–0591, or FAX 202–606–5049.

SUPPLEMENTARY INFORMATION: The Treasury, Postal Service, and General Government Appropriations Act, 1996 (Public Law 104–52, November 19, 1995) shifts the funding for the Federal employment information function from OPM appropriations to a combination of OPM appropriations and fees for services to be paid by agencies into OPM's revolving fund. Each subsequent year Congress will decide how much money to appropriate directly to OPM for this function. This new financial obligation of agencies is contained in section 4 of the OPM general provisions, title IV, of Public Law 104–52.

Providing Employment Information

Agencies are subject to two statutory requirements that require public notice for competitive examinations and vacancies in the competitive service and Senior Executive Service. Under both laws, OPM is responsible for collecting and disseminating the information.

Under 5 U.S.C. 3327, agencies must notify OPM of (1) competitive examinations and (2) vacancies in the competitive service and Senior Executive Service for which the agency will consider applicants from outside the Federal service. OPM's implementing regulations for the competitive service are in 5 CFR 330.102 and 333.102 and the Senior Executive Service, in § 317.501(b).

Section 3327 requires OPM to make information available to State Employment Service offices regarding competitive examinations conducted by OPM or agencies under delegated examining authority. It also authorizes OPM to issue regulations under which agencies shall notify the State Employment Service of vacancies for which the agency seeks applications from persons outside the Federal service. Since 1989, OPM has met these statutory requirements through regular electronic reports of job listings in the Federal Employment Information System to America's Job Bank, a Department of Labor funded organization that disseminates vacancy information to State Employment Service offices. Agencies need take no further action.

Under 5 U.S.C. 3330, agencies must notify OPM of competitive service job announcements open to applicants outside an agency's own workforce. OPM is required to make this information available to the public. (This requirement was previously in 5 U.S.C. 3329, which was redesignated as section 3330 by Public Law 104–52.) OPM's implementing regulations are in 5 CFR 335.105.

Agencies also are required by the Interagency Career Transition Assistance Plan for Displaced Employees in 5 CFR part 330 to notify OPM of vacancies open to candidates outside an agency's workforce. OPM makes this information available to assist displaced employees in finding employment. The Plan implemented, in part, the President's memorandum of September 12, 1995, entitled ''Career Transition Assistance for Federal Employees.''

In addition to carrying out the obligations discussed above, OPM provides employment information to support outplacement services provided by agency career transition centers. OPM also responds to a large volume of inquiries from the public, Federal employees, Congressional offices, and others on a broad range of employment topics.

Funding Job Information

Previously, Congress provided direct funding to OPM to carry out employment information functions. However, during deliberations on OPM's FY 96 appropriations, Congress concluded that individual agencies should fund these functions. Congress reduced OPM's FY 96 funding of the employment information function to only 32 percent of what it was in FY 95. Public Law 104–52 adds the following new subsection to redesignated 5 U.S.C. 3330:

''(f) The Office may, to the extent it determines appropriate, charge such fees to agencies for services provided under this section and for related Federal employment information. The Office shall retain such fees to pay the costs of providing such services and information.''

These regulations implement the new subsection (f). For the future, OPM will establish a working group of the Interagency Advisory Group, consisting of officials from representative agencies and OPM, to review the level, quality and costs of information services provided and make recommendations for improving efficiency and effectiveness. All agencies will have the opportunity, through the Interagency Advisory Group, to discuss and comment on recommendations of the working group prior to implementation.

OPM will regularly report to agencies the information it collects regarding customer satisfaction and complaints. OPM also will notify each agency annually of the costs of the services, its obligation and of payment procedures.

These regulations also consolidate the public notice requirements for competitive service positions in parts 330, 333, and 335. OPM will notify agencies directly of the information regarding specific announcements to be reported. The requirement in parts 330 and 333 that individual agencies notify the State Employment Service of vacancies is eliminated since OPM provides this report on behalf of agencies. Furthermore, to better serve displaced employees and the public, OPM recently asked agencies to provide electronic files of vacancy announcements to OPM. OPM will make these available directly to job seekers, minimizing the number of inquiries to agencies, and thus reducing personnel office workload.

Computation of Agency Fees for FY 96

The Federal Employment Information System is a dynamic data base of job listings and vacancy announcements as well as general employment information for students, veterans, disabled persons, and others. To minimize the financial impact of the new law on agencies, OPM has already reduced or eliminated several services previously provided. These included live operator telephone service and face-to-face counter service at Federal Employment Information Centers, as well as customized responses to written inquiries. Available services now include access to three automated data bases:

- the Career America Connection—a nationwide phone system with access points at OPM Service Centers and the OPM Staffing Service Center in Macon, GA.
- the Federal Job Opportunities Board—an electronic bulletin board with access for individuals, career transition centers, and college placement offices through modems or Internet.
- touchscreen computers located in OPM offices, Federal office buildings, and other locations.

Job seekers can read or download job listings, vacancy announcements, and application materials, or they can request that such materials be mailed or faxed to them. The system is accessible to the hearing impaired, and OPM provides large print or Braille versions for the visually impaired. OPM also provides limited live operator service on its Career America Connection lines into the Macon, GA, Staffing Service Center.

This level of employment information is the minimum we must provide to fulfill our statutory obligations. This minimum level of employment information service will cost $5.3 million in FY 96 in operating and maintenance costs. OPM has already borne the costs of developing the system and installing the technology.

Congress directed that OPM share the operating and maintenance costs necessary to provide this service. OPM has been appropriated $2.5 million for this purpose in FY 96. The balance is $2.8 million, which we propose to charge to agencies as authorized by Pub. L. 104–52.

To determine a fair fee structure, we considered all who benefit from this service. Clearly we all do.

- The system enables OPM and agencies to meet the public notice requirements of an open, competitive merit system as required by law.
- The system attracts quality candidates for those agencies that are recruiting, and provides a mechanism to assist agencies in achieving a diverse workforce. It provides a vital link to students at colleges and universities, as well as to counsellors who assist veterans and the disabled.
- The system helps surplus and displaced employees. The system provides the framework for the career transition programs that will replace the Interagency Placement Program.
- The system handles over 6.5 million inquiries a year, inquiries that would otherwise go to individual agency personnel offices.

Because all agencies benefit from this service whether or not they are actively recruiting, OPM has proposed to agencies that the FY 96 fee for employment information services be based on each agency's proportionate share of the Federal competitive service workforce. The employment figures would be taken from OPM's Central Personnel Data File (CPDF) as of March 31, 1995, and would include all permanent and nonpermanent competitive service employees.

OPM proposed to include nonpermanent employees because use of temporary and term employment has increased as agencies adjust to reduced funding levels, and job announcements for nonpermanent as well as permanent employment must be reported to OPM.

We proposed to count employment as of March 31st because employment on that date is available in time to allow for agency planning and budgeting.

After considering comments on this proposal, OPM will issue final regulations. At that time, we will begin to collect fees for FY 96. Although OPM recommends that agencies be billed at the agency level to minimize billing and accounting, OPM will accommodate agencies as much as possible, such as billing at the sub-component level if an agency prefers.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it pertains only to Federal agencies.

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

List of Subjects

5 CFR Part 330

Armed forces reserves, Government employees.

5 CFR Parts 333 and 335

Government employees.

U.S. Office of Personnel Management.

James B. King,

Director.

Accordingly, OPM proposes to amend 5 CFR parts 330, 333, and 335, as follows:

PART 330—RECRUITMENT, SELECTION, AND PLACEMENT (GENERAL)

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

Authority: 5 U.S.C. 1302, 3301, 3302; E.O. 10577, 3 CFR, 1954–58 Comp., p. 218.

Section 330.102 also issued under 5 U.S.C. 3327 and 3330.

Subpart B also issued under 5 U.S.C. 3315 and 8151.

Section 330.401 also issued under 5 U.S.C. 3310.

Subpart H also issued under 5 U.S.C. 8337(h) and 8457(b).

Subpart I also issued under sec. 4432 of Pub. Law 102–484, 106 Stat 2720, 5 U.S.C. 3301 note.

2. Section 330.102 is revised, to read as follows:

§ 330.102 Federal employment information.

(a) *Vacancies open to the public.*

(1) *Notice required.* (i) Under 5 U.S.C. 3327, Federal agencies must notify OPM promptly of:

(A) Open competitive examinations;

(B) Vacancies in the competitive service to be filled under direct hire procedures or part 333 of this chapter; and

(C) Vacancies in the Senior Executive Service for which the agency seeks applications from persons outside the Federal service. Also, in accordance with § 317.501(b)(2) of this chapter, agencies must notify OPM of all Senior Executive Service vacancies to be filled by initial career appointment.

(ii) OPM will provide this information to the employment offices of the United States Employment Service.

(2) *Agencies covered.* Paragraph (a)(1) of this section applies to:

(i) The executive departments listed at 5 U.S.C. 101;
(ii) The military departments listed at 5 U.S.C. 102;
(iii) Government owned corporations in the executive branch as described at 5 U.S.C. 103;
(iv) Independent establishments in the executive branch as described at 5 U.S.C. 104, including the Nuclear Regulatory Commission; and
(v) Government Printing Office.
(b) *All other vacancies.*
(1) *Notice required.* Under 5 U.S.C. 3330, OPM must maintain, and make available to the public, a list of agency vacancy announcements for positions in the competitive service. Under § 330.706 of this chapter, agencies must notify OPM of competitive service vacancies for which an agency will accept applications from outside an agency's workforce. Therefore, agencies must notify OPM promptly of competitive service vacancies to be filled for more than 90 days from among current career and career-conditional employees, reinstatement eligibles, and/or candidates with noncompetitive appointment eligibility, when the agency will accept applications from individuals outside the agency's own work force.
(2) *Agencies covered.* Except for any executive agency or unit thereof whose principal function is the conduct of foreign intelligence or counterintelligence activities, as determined by the President, paragraph (b)(1) of this section applies to:
(i) The executive departments listed at 5 U.S.C. 101;
(ii) The military departments listed at 5 U.S.C. 102;
(iii) Government corporations in the executive branch as described at 5 U.S.C. 103; and
(iv) Independent establishments in the executive branch as described at 5 U.S.C. 104.
(c) *Content.* Notice to OPM of job announcements must include the position title, tenure, location, pay plan and grade (or pay rate) of the vacant position; application deadline; and other information specified by OPM. In addition, agencies shall provide OPM with an electronic file of the complete vacancy announcement or recruiting bulletin, which must include the qualifications required, equal opportunity provisions and, when applicable, veterans' preference provisions.
(d) *Funding.* Under 5 U.S.C. 3330(f), OPM is authorized to charge fees to agencies for their share of the cost of providing employment information to the public and to Federal employees. OPM will work with agencies to review the effectiveness and efficiency of the Federal Employment Information System in meeting Federal agency and pubic needs and identify improvements to the system, consistent with the minimum level of service and statutory requirements. Subsequently, OPM will annually compute the cost of providing employment information and notify each agency of its share, along with a full accounting of the costs, and payment procedures.

PART 333—RECRUITMENT AND SELECTION FOR TEMPORARY AND TERM APPOINTMENTS OUTSIDE THE REGISTER

3. The authority citation for 333 is revised to read as follows:

Authority: 5 U.S.C. 1302, 3301, 3302, 3327, 3330; E.O. 10577, 3 CFR 1954–58 Comp., p. 218; § 333.203 also issued under 5 U.S.C. 1104.

4. Section 333.102 is revised to read as follows:

§ 333.102 Notice of job announcements to OPM.

Under 5 U.S.C. 3327 and 3330, agencies are required to report job announcements to OPM when recruiting outside the register. This requirement is implemented through § 330.102 of this chapter.

PART 335—PROMOTION AND INTERNAL PLACEMENT

5. The authority citation for part 335 is revised to read as follows:

Authority: 5 U.S.C. 3301, 3302, 3330; E.O. 10577, 3 CFR 1954–58 Comp., p. 218.

6. Section 335.105 is revised to read as follows:

§ 335.105 Notice of job announcements to OPM.

Under 5 U.S.C. 3330, agencies are required to report job announcements to OPM. This requirement is implemented through § 330.102 of this chapter.

[FR Doc. 96–214 Filed 1–5–96; 8:45 am]
BILLING CODE 6325–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 95–AWP–45]

Proposed Amendment of Class E Airspace; Hanford, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Class E airspace area at Hanford, CA. The development of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 32 has made this proposal necessary. The intended effect of this proposal is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Hanford Municipal Airport, Hanford, CA.

DATES: Comments must be received on or before February 15, 1996.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, System Management Branch, AWP–530, Docket No. 95–AWP–45, Air Traffic Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

The official docket may be examined in the Office of the Assistant Chief Counsel, Western Pacific Region, Federal Aviation Administration, Room 6007, 15000 Aviation Boulevard, Lawndale, California 90261.

An informal docket may also be examined during normal business at the Office of the Manager, System Management Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT: Scott Speer, Airspace Specialist, System Management Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6533.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are presently helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with the comments a self-addressed, stamped postcard on which the following statement is made:

''Comments to Airspace Docket No. 95–AWP–45.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the System Management Branch, Air Traffic Division, at 15000 Aviation Boulevard, Lawndale, California 90261, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, System Management Branch, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedures.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) by amending the Class E airspace area at Hanford, CA. The development of GPS SIAP at Hanford Municipal Airport has made this proposal necessary. The intended effect of this proposal is to provide adequate Class E airspace for aircraft executing the GPS RWY 32 SIAP at Hanford Municipal Airport, Hanford, CA. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in this Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep from operationally current. Therefore, this proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that would only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AWP AZ E5 Hanford, CA [Revised]

Hanford Municipal Airport, CA
(lat. 36°19′07″ N, long. 119°37′44″ W)

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Hanford Municipal Airport.

* * * * *

Issued in Los Angeles, California, on December 11, 1995.

Richard R. Lien,

Manager, Air Traffic Division, Western-Pacific Region.

FR Doc. 96–221 Filed 1–5–96; 8:45 am]

BILLING CODE 4910–13–M

---

14 CFR Part 71

[Airspace Docket No. 95–AWP–13]

Proposed Establishment of Class E Airspace; Hollister, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish a Class E airspace area at Hollister, CA. The development of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 31 has made this proposal necessary. The intended effect of this proposal is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Hollister Municipal Airport, Hollister, CA.

DATES: Comments must be received on or before February 15, 1996.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, System Management Branch, AWP–530, Docket No. 95–AWP–13, Air Traffic Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

The official docket may be examined in the Office of the Assistant Chief Counsel, Western Pacific Region, Federal Aviation Administration, Room 6007, 15000 Aviation Boulevard, Lawndale, California 90261.

An informal docket may also be examined during normal business at the Office of the Manager, System Management Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT: Scott Speer, Airspace Specialist, System Management Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6533.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with the comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 95–AWP–13.'' The postcard will be date/

time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the System Management Branch, Air Traffic Division, at 15000 Aviation Boulevard, Lawndale, California 90261, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, System Management Branch, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedures.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish a Class E airspace area at Hollister, CA. The development of AGPS SIAP at Hollister Municipal Airport has made this proposal necessary. The intended effect of this proposal is to provide adequate Class E airspace for aircraft executing the GPS RWY 31 SIAP at Hollister Municipal Airport, Hollister, CA. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in this Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that would only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E. O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AWP CA E5 Hollister, CA [New]

Hollister Municipal Airport, CA
(lat. 36°53′36″ N, long. 121°24′37″ W)

That airspace extending upward from 700 feet above the surface within a 4.2-mile radius of Hollister Municipal Airport and within 2 miles each side of the 142° bearing from the Hollister Municipal Airport extending from the 4.2-mile radius to 10 miles southeast of the Hollister Municipal Airport.

* * * * *

Issued in Los Angeles, California, on December 13, 1995.

Richard R. Lien,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 96–222 Filed 1–5–96; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 95–AWP–44]

Proposed Amendment of Class E Airspace; Montague, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Class E airspace area at Montague, CA. The intended effect of this proposal is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Siskiyou County Airport, Montague, CA.

DATES: Comments must be received on or before February 15, 1996.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, System Management Branch, AWP–530, Docket No. 95–AWP–44, Air Traffic Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

The official docket may be examined in the Office of the Assistant Chief Counsel, Western Pacific Region, Federal Aviation Administration, Room 6007, 15000 Aviation Boulevard, Lawndale, California 90261.

An informal docket may also be examined during normal business at the Office of the Manager, System Management Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT: Scott Speer, Airspace Specialist, System Management Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6533.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with the comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 95–AWP–44.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the System Management Branch, Air Traffic Division, at 15000 Aviation Boulevard, Lawndale, California 90261, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, System Management Branch, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedures.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend the Class E airspace area at Montague, CA. The development of a runway 35 departure procedure at Siskiyou County Airport has made this proposal necessary. The intended effect of this proposal is to provide adequate Class E airspace for aircraft departing the Siskiyou County Airport, Montague, CA. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in this Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that would only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

Authority: 49 U.S.C. 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AWP CA E5 Montague, CA [Revised]

Montague, Siskiyou County Airport, CA
(lat. 41°46′53″N, long. 122°28′05″W)
Montague NDB
(lat. 41°43′38″N, long. 122°28′55″W)

That airspace extending upward from 700 feet above the surface within a 6.1-mile radius of Siskiyou County Airport. That airspace extending upward from 1,200 feet above the surface within 9 miles east and 7 miles west of the 352° bearings from the Montague NDB, extending from the Montague NDB to 32 miles north of the Montague NDB and within 8.3 miles east and 5.2 miles west of the 180° bearing from the Montague NDB, extending from the Montague NDB to 16.5 miles south of the Montague NDB.

* * * * *

Issued in Los Angeles, California, on December 11, 1995,

Richard R. Lien,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 96–223 Filed 1–5–96; 8:45 am]

BILLING CODE 4910–13–M

14 CFR part 71

[Airspace Docket No. 95–AEA–14]

Proposed Establishment of Class E Airspace; Richlands, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would establish Class E Airspace at Richlands, VA. A standard instrument approach procedure (SIAP), based on the Global Positioning System (GPS), has been developed for Runway (RWY) 25 at Tazewell County Airport, Richlands, VA. The intended effect of this proposal is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations to the airport. The area would be depicted on aeronautical charts for pilot reference.

DATES: Comments must be received on or before March 25, 1996.

ADDRESSES: Send comments on the proposed rule in triplicate to: Manager, System Management Branch, AEA–530, Docket No. 95–AEA–14 F.A.A. Eastern Region, Federal Building #111, John F. Kennedy Int'l Airport, Jamaica, NY 11430.

The official docket may be examined in the Office of the Assistant Chief Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430.

An informal docket may also be examined during normal business hours in the System Management Branch, AEA–530, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430

FOR FURTHER INFORMATION CONTACT: Mr. Francis T. Jordan, Jr., Airspace Specialist, System Management Branch, AEA–530, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone (718) 553–4521.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interesed parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire.

Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 95–AEA–14''. The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Assistant Chief Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace extending upward from 700 feet above the surface at Richlands, VA. A GPS RWY 25 SIAP has been developed for Tazewell County Airport. Additional controlled airspace extending upward from 700 feet above the surface is needed to accommodate this SIAP and for IFR operations at the airport. The area would be depicted on appropriate aeronautical charts. Class E airspace designations for airspace extending upward from 700 feet above the surface are published in Paragraph 6005 of FAA Order 7400.9C, dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that would only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, dated August 17, 1995, and effective September 16, 1995, is proposed to be amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth

* * * * *

AEA VA E5 Richlands, VA

Tazewell County Airport, VA
(lat. 37°03′49″ N, long. 81°47′54″W)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Tazewell County Airport.

* * * * *

Issued in Jamaica, New York, on December 15, 1995.

John S. Walker,

Manager, Air Traffic Division.

[FR Doc. 96–224 Filed 1–5–96; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[EE–148–81]

Retirement Bonds

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Withdrawal of proposed regulations.

SUMMARY: This document withdraws proposed regulations relating to retirement bonds as part of the President's Regulatory Reinvention Initiative.

DATES: The proposed regulations are withdrawn January 8, 1996.

FOR FURTHER INFORMATION CONTACT: Philip Bennet, (202) 622–3926.

SUPPLEMENTARY INFORMATION:

Background

As part of the President's Regulatory Reinvention Initiative, the Treasury Department and the IRS identified obsolete regulations that relate to prior law, provide elections for prior years, or are otherwise outdated due to changes in the underlying statutory provisions.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Withdrawal of Proposed Amendments to the Regulations

Accordingly, under the authority of 26 U.S.C. 7805, proposed regulations § 1.409–1(b)(2)(i) that were published in the Federal Register on January 23, 1984 (49 FR 2794) are withdrawn.

Margaret Milner Richardson,

Commissioner of Internal Revenue.

[FR Doc. 96–165 Filed 1–5–96; 8:45 am]

BILLING CODE 4830–01–U

Fiscal Service

31 CFR Part 256

RIN 1510–AA52

Payments Under Judgments And Private Relief Acts

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to revise the regulations which govern the procedures for payments under Judgments and Private Relief Acts. It specifically addresses the procedures for applying for payments, and clarifies the payment process. These revisions are intended to provide greater clarity and understanding by replacing obsolete references and unnecessary requirements with current references and requirements.

DATES: Comments must be submitted on or before February 7, 1996.

ADDRESSES: Comments may be addressed to Charles F. Schwan III, Director, Funds Management Division, Financial Management Service, Room 620D, 3700 East-West Highway, Hyattsville, MD 20782 or by FAX to the attention of Charles Schwan on (202) 874–8372.

FOR FURTHER INFORMATION CONTACT: Charles F. Schwan III, (202) 874–8380, Director, Funds Management Division; or Bernice Mays, (202) 874–8652, Accountant, Credit Accounting Branch.

SUPPLEMENTARY INFORMATION:

Background

The proposed revision will update the procedure for making claims. This will benefit claimants by reducing the requirements that must be followed in order to receive payment on judgments against the United States. This regulation currently sets a threshold for judgment claims greater than $100,000 and judgment claims equal to or less than $100,000. The change would eliminate the $100,000 threshold distinction for processing a claim.

Rulemaking Analysis

It has been determined that this regulation is not a significant regulatory action as defined in Executive Order 12866. Accordingly, a regulatory assessment is not required. It is hereby certified that this revision will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. This change will clarify the regulation.

List of Subjects in 31 CFR Part 256

Claims, Administrative practices and procedures.

For the reasons set forth in the preamble, 31 CFR part 256 is proposed to be revised to read as follows:

PART 256—PAYMENTS UNDER JUDGMENTS AND PRIVATE RELIEF ACTS

Sec.

Authority: 28 U.S.C. 2414; 31 U.S.C. 1304.

§ 256.1 Judgments against the United States.

(a) Persons securing money judgments against the United States in the U.S. Court of Federal Claims are required to file original transcripts of such judgments with the Comptroller General of the U.S. General Accounting Office (GAO) in order to secure payment. In addition, the U.S. Department of Justice submits a voucher for payment with supporting documents to the GAO on behalf of the claimants. The GAO certifies payment on a Certificate of Settlement to the U.S. Treasury Department, Financial Management Service (FMS).

(b) For persons securing money judgments against the United States in the U.S. district courts, the same procedures as described in paragraph (a) of this section apply, except that all of the necessary paperwork is forwarded directly to the GAO by the U.S. Department of Justice. Neither a filing nor a request for payment is required from the claimant securing a judgment. The GAO verifies that the voucher is proper for payment from the Judgment fund and transmits a certified award to FMS.

(c) Payment is made to the claimant in accordance with the instructions as stated in the certified award.

§ 256.2 Payment of sums appropriated in private relief acts.

Persons entitled to payment of sums appropriated in private relief acts should make application for payment to the Credit Accounting Branch, Financial Management Service, Treasury Department, Hyattsville, MD 20782. Upon receipt of an application, bearing the signature and mailing address of the beneficiary, the Credit Accounting Branch will initiate the necessary review of the applicable private law and will effect payment in accordance with the private law.

Dated: November 22, 1995.

Russell D. Morris,

Commissioner.

[FR Doc. 96–161 Filed 1–5–96; 8:45 am]

BILLING CODE 4810–35–U

Notices

Federal Register
Vol. 61, No. 5
Monday, January 8, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Advisory Committee on Military Personnel Testing

ACTION: Notice.

Pursuant to Public Law 92–463, notice is hereby given that a meeting of the Defense Advisory Committee on Military Personnel Testing is scheduled to be held from 8:30 a.m. to 4:30 p.m. on February 1, 1996 and from 8:30 a.m. to 4:30 p.m. on February 2, 1996. The meeting will be held at the Hyatt Newporter, 1107 Jamboree Road, Newport Beach, California 92660. The purpose of the meeting is to review planned changes and progress in developing paper-and-pencil and computerized enlistment tests, Department of Defense's Student Testing Program, and renorming of the tests. Persons desiring to make oral presentations or submit written statements for consideration at the Committee meeting must contact Dr. Jane M. Arabian, Assistant Director, Accession Policy, Office of the Assistant Secretary of Defense (Force Management Policy), Room 2B271, The Pentagon, Washington, DC 20301–4000, telephone (703) 697–9271, no later than January 20, 1996.

Dated: January 3, 1996.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–203 Filed 1–5–96; 8:45 am]

BILLING CODE 5000–04–M

Department of the Army

Armed Forces Epidemiological Board (AFEB); Closed Meeting

AGENCY: Office of The Surgeon General, Army, DoD.

ACTION: Notice of closed meeting.

SUMMARY: In accordance with section 10(a)(2) of Public Law 92–463, The Federal Advisory Committee Act, this announces the forthcoming AFEB Disease Control Subcommittee Meeting. The meeting will be held from 1130 to 1500, Friday, February 9, 1996. The purpose of the meeting is to discuss infectious disease issues relevant to the Bosnian deployment. The meeting location will be Skyline Six, 5109 Leesburg Pike, Room 667, Falls Church, Virginia 22041–3258. This meeting will be closed to the public in accordance with Section 552b(c) of title 5, U.S.C., specifically subparagraph (1) thereof and title 5, U.S.C., appendix 1, subsection 10(d).

FOR FURTHER INFORMATION CONTACT: COL Vicky Fogelman, AFEB, Executive Secretary, Armed Forces Epidemiological Board, Skyline Six, 5109 Leesburg Pike, Room 667, Falls Church, Virginia 22041–3258, (703) 681–8012/3.

SUPPLEMENTARY INFORMATION: None.

Juanita H. Maberry,

Alternate, Army Federal Register Liaison Officer.

[FR Doc. 96–190 Filed 1–5–96; 8:45 am]

BILLING CODE 3710–08–M

Corps of Engineers

Intent to Prepare a Joint Draft Environmental Impact Statement (EIS)/Environmental Impact Report (EIR) for South Sacramento County Streams Investigation, California

AGENCY: U.S. Army Corps of Engineers, Sacramento District, DoD.

ACTION: Notice of intent.

The U.S. Army Corps of Engineers (Corps), lead agency under the National Environmental Policy Act, and the Sacramento Area Flood Control Agency (SAFCA), lead agency under the California Environmental Quality Act, intend to prepare a joint document to evaluate the environmental effects of proposed flood protection for the southern part of the City and County of Sacramento. The Corps and SAFCA are working with the City and County of Sacramento to jointly provide this protection.

SUMMARY: This investigation will identify and evaluate potential measures to provide additional flood protection for the 180-square mile study area, which includes Morrison and Laguna Creeks and their tributaries, and the flood prone areas associated with the Beach-Stone Lakes system. Measures will include channel improvements, levee raising, and levee reconstruction and extension at various locations within the study area.

FOR FURTHER INFORMATION CONTACT: Questions concerning the proposed action and EIR/EIS should be directed to Ms. Jane Rinck, Environmental Resources Branch, U.S. Army Corps of Engineers, 1325 J Street, Sacramento, California 95814–2922, telephone (916) 557–6715. All persons interested in receiving the draft document should contact Ms. Trina Farris, telephone (916) 557–6777.

SUPPLEMENTARY INFORMATION:

1. Project Location:

The project area is located in south Sacramento County, California, and includes a populated area in the southern portion of the City and County of Sacramento. The study area encompasses a 180-square mile drainage basin. The upper part of the basin is sloped and is drained by Morrison and Laguna Creeks and their tributaries. Morrison Creek then flows into the lower basin, called the Beach-Stone Lakes area. Streams with 10-year flows great enough to qualify for Corps involvement are Morrison, Elder, Unionhouse, and Laguna Creeks.

2. Proposed Action and Alternatives:

The Corps and SAFCA, the non-Federal sponsor, are conducting a feasibility investigation to identify and evaluate alternative measures to provide additional flood protection to the southern part of the City and County of Sacramento.

The feasibility report and EIS/EIR will include the alternatives analyzed in the 1994 reconnaissance report and carried forward for analysis in the feasibility phase along with any feasible alternatives resulting from public scoping and coordination. These alternatives include the no-action alternative and the following flood control plans: (1) Nonstructural measures; (2) channel improvements on Morrison, Elder, Unionhouse, and Laguna Creeks; and (3) levee raising and reconstruction on Morrison, Elder, Unionhouse, and Laguna Creeks. The reconnaissance report also considered upstream detention basins but it was determined that detention was not an economically effective means of flood control. The EIS/EIR will also address environmental mitigation and evaluate potential restoration and enhancement opportunities.

3. Environmental Consequences:

The lead agencies have identified potential environmental effects of the proposed action in the following areas:

- Aquatic, wetland, and riparian habitats.
- Fish and wildlife populations.
- Esthetics, recreation opportunity and use.
- Construction-related traffic, air quality, and noise.
- Water quality.
- Cultural resources.
- Threatened and endangered species.

The EIS/EIR will evaluate the effects on these areas and any other potentially significant effects identified in the scoping process. The no-action alternative (no Federal action to improve flood protection) will be the baseline for evaluating effects of the proposed action and other alternatives.

4. Schedule: The draft EIS/EIR is scheduled to be distributed for public review and comment in 1997.

John N. Reese,

Col, EN, Commanding.

[FR Doc. 96–182 Filed 1–5–96; 8:45 am]

BILLING CODE 3710–EZ–M

Corps of Engineers

Intent to Prepare a Draft Supplemental Revised Environmental Impact Statement for a Proposed Sauquoit Creek at Whitesboro, New York Flood Control Project

AGENCY: U.S. Army Corps of Engineers, New York District.

ACTION: Notice of Intent.

SUMMARY: *Description of Proposed Action.* The New York District office of the Corps of Engineers proposes to provide flood protection for the town of Whitestown through modification of Sauquoit Creek and construction of a high-flow diversion channel. The Corps has identified a history of frequent and serious flooding along the Sauquoit Creek in the town of Whitestown. The flooding is caused by both fluvial and ice-jam related events. The project extends from the entrance ramp to 5A to the confluence of Sauquoit Creek with the Mohawk River. The total length of the channel modification is approximately 1 mile ending in a 3,200-foot, high-flow diversion channel. The high-flow diversion channel will take the place of widening and deepening the last 1750 feet of Sauquoit Creek prior to its confluence with the Mohawk River, an undeveloped, well vegetated reach. The diversion channel allows water and ice, backed up from jams in the meandering existing channel downstream of the project, to flow out of the damage areas. Under non-flood conditions, the diversion would carry no flow and low flows would continue to flow down the exciting Sauquoit Creek channel. The plan prevents damages from fluvial events up to the 25-year level and from ice jam events up to the 8-year level. For combined conditions, the level of protection is estimated to be 5-year.

FOR FURTHER INFORMATION CONTACT: Project Manager, Joseph Redican (ATTN: CENAN–PL–FF) at (212) 264–1060 or EIS Coordinator, Karen Vanderwall (ATTN: CENAN–PL–ES) at (212) 264–1275, New York District Corps of Engineers, 26 Federal Plaza, New York, NY 10278–0090.

SUPPLEMENTARY INFORMATION:

1. Reasonable Alternatives

Various alternative flood control designs were considered prior to the development of the original 1986 EIS. The preferred design from a flood control perspective included widening and deepening of the Sauquoit Creek from the Oriskany Boulevard bridge to its confluence with the Mohawk River. Based on environmental concerns expressed at that time, a design alternative that reduced environmental impacts was chosen. The final recommended design includes a high-flow diversion channel in the lowest 3,200 feet of the project running parallel to Sauquoit Creek. This diversion channel takes the place of modifying high quality stream habitat that exists in the lower reaches of the project area.

2. Scoping Process

a. Public Involvement. A full scale scoping process was conducted for the original EIS including 3 coordination meetings with local agencies and a town meeting attended by 150 people. A notice of intent and the draft EIS were filed in the Federal Register after which comments were received from the following agencies: U.S. Fish and Wildlife Service, National Oceanic and Atmospheric Administration, U.S. Soil Conservation Service, U.S. Environmental Protection Agency, U.S. Department of Housing and Urban Development, Advisory Council On Historic Preservation, New York State Office of Parks Recreation and Historic Preservation, New York State Department of Environmental Conservation, New York Governors Office, and Oneida County Environmental Management Council. Any interested party is encouraged to comment on the supplemental draft EIS when a notice of availability is published in the Federal Register.

b. Significant Issues Requiring In-depth Analysis. This office intends to develop a draft supplemental environmental impact statement to amend an original statement completed in June, 1986. This action is needed to re-assess the impacts resulting from the flood control project in order to comply with current federal and state regulations and policies. In addition, current habitat restoration techniques can be utilized.

3. Significant Issues

The Significant issues to be addressed include:

a. Wetland mitigation,

b. In-stream and stream bank habitat restoration,

c. Re-vegetation of stream banks and channel diversion, and

d. Incorporation of bioengineering techniques along stream banks.

4. Scoping Meeting

Scoping meeting will not be held. Several scoping meetings were held at the time of the original environmental assessment for this project and significant environmental issues related to the project were identified. The project design has not been changed, therefore, a scoping meeting will not take place.

5. Estimated Date of Statement Availability

February 5, 1996.

Juanita H. Maberry,

Alternate, Army Federal Register Liaison Officer.

[FR Doc. 96–191 Filed 1–5–96; 8:45 am]

BILLING CODE 3710–06–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2315–002, South Carolina; Project Nos. 2332–003 and 2331–002, North Carolina and South Carolina]

South Carolina Electric and Gas Company and Duke Power Company; Notice of Availability of Environmental Assessment

January 2, 1996.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) Regulations, 18 CFR Part 380 (Order No. 486, 52 F.R. 47897), the Office of Hydropower Licensing has reviewed the applications for new licenses for the following three existing hydroelectric Projects, all of which are located on the Broad River in South Carolina: (1) The Neal Shoals Project (No. 2315–002), located in Chester and Union Counties, near Carlisle, SC; (2) the Ninety-Nine Islands Project (No. 2331–002), located in Cherokee County near Gaffney, SC; and (3) the Gaston Shoals Project (No. 2332–003), located in Cherokee County, South Carolina and Cleveland County, North Carolina near Gaffney, SC. The Commission has prepared a final Multiple Project Environmental Assessment (EA) covering all three projects. The final EA contains the Commission staff's analysis of the existing and potential future environmental impacts of the projects and has concluded that licensing the projects, with appropriate environmental protective or enhancement measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

Copies of the EA are available for review in the Public Reference Room, Room 2A, of the Commission's offices at 888 First Street NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 96–195 Filed 1–5–96; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 459–073 Missouri]

Union Electric Company; Notice of Availability of Environmental Assessment

January 2, 1996.

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) reviewed an application for dredging on the Lake of the Ozarks at the Osage Project. The applicant proposes to excavate approximately 1,900 cubic yards of material for a boat ramp, a boat turn-around area, and a boat access channel. The applicant also proposes to construct a small protective berm around the lakeward edge of the excavation sites. The excavation will occur on project lands and waters in Morgan County, Missouri. The primary purpose of the excavation activity is to provide boat access to project waters for private recreational use. The staff prepared an Environmental Assessment (EA) for the action. In the EA, staff concludes that approval of the non-project use of project lands 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 Public Reference Room, Room 2A, of the Commission's offices at 888 First Street NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 96–194 Filed 1–5–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER96–72–000]

PacifiCorp; Notice of Filing

January 2, 1996.

Take notice that on November 30, 1995, PacifiCorp tendered for filing an amendment to its filing in this docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before January 10, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–193 Filed 1–5–96; 8:45 am]

BILLING CODE 6717–01–M

FEDERAL RESERVE SYSTEM

First Financial Bancorp, 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 February 1, 1996.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. First Financial Bancorp, Hamilton, Ohio; to merge with F&M Bancorp, Rochester, Indiana, and thereby indirectly acquire Farmers & Merchants Bank, Rochester, Indiana.

2. FirstMerit Corporation, Akron, Ohio; to acquire 100 percent of the voting shares of FirstMerit Trust Company, N.A., Naples, Florida.

B. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. LJT, Inc., Holdrege, Nebraska; to acquire .20 percent of the voting shares of First Holdrege Bancshares, Inc., Holdrege, Nebraska, and thereby indirectly acquire shares of First National Bank of Holdrege, Holdrege, Nebraska.

C. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. California Community Bancshares Corporation, Vacaville, California; to become a bank holding company by acquiring Continental Pacific Bank, Vacaville, California. Comments on this application must be received by January 22, 1996.

Board of Governors of the Federal Reserve System, January 2, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–185 Filed 1–5–96; 8:45 am]

BILLING CODE 6210–01–F

First Union Corporation, et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

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 on the question whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.'' Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than January 22, 1996.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *First Union Corporation*, Charlotte, North Carolina; to acquire Society First Federal Savings Bank, Fort Myers, Florida, and thereby engage in operating a savings association, pursuant to § 225.25(b)(9) of the Board's Regulation Y.

B. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Pinellas Bancshares Corporation*, St. Petersburg, Florida; to acquire Eickhoff, Pieper & Willoughby, Inc., Tampa, Florida, and thereby engage in providing investment or financial advice, pursuant to § 225.25(b)(4)(iii) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 2, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–186 Filed 1–5–96; 8:45 am]

BILLING CODE 6210–01–F

GENERAL SERVICES ADMINISTRATION

Public Buildings Service

Notice of Intent To Prepare an Environmental Impact Statement for a Proposed U.S. Courthouse and Federal Building in Las Vegas, NV

Pursuant to the Council of Environmental Quality Regulations (40 Code of Federal Regulations 1500–1508) implementing procedural provisions of the National Environmental Policy Act (NEPA), the General Services Administration (GSA) hereby gives notice that an Environmental Impact Statement (EIS) shall be prepared for the construction of a new 415,000-gross-square foot Federal Building-U.S. Courthouse (FB–CT) to be located within the Central Business Area (CBA) of the city of Las Vegas, Nevada. The proposed site encompasses about 6 acres and is owned by the city of Las Vegas. The proposed site is bounded by Bridger Avenue on the north, Clark Avenue on the south, Las Vegas Boulevard on the west, and 6th Street on the east. The EIS shall examine three project alternatives. Specific alternatives to be evaluated shall include: (1) construction of the FB–CT on the 3.5-acre Fifth Street School site, a property listed on the National Register of Historic Places located at 400 Las Vegas Boulevard; (2) construction of the FB–CT on an 8.3-acre portion of the county-owned railroad yard at the end of Bonneville Street between Main Street, Interstate 15, U.S. Highway 95 and Charleston Boulevard; and (3) no action or continued use of the existing Federal buildings and U.S. Courthouse.

GSA invites interested individuals, organizations, and Federal, State and local agencies to participate in defining the reasonable alternatives to be evaluated in the EIS and in identifying any significant social, economic, or environmental issues related to the alternatives. Scoping will be accomplished by correspondence and through a public meeting. The meeting is scheduled for Thursday, January 11, 1996, from 4 p.m. to 7 p.m., at the Clark County Regional Center, 505 South Grand Central Parkway, Pueblo Room (1st Floor), Las Vegas, Nevada. Comments received during the meeting will be made a part of the administrative record for the EIS and will be evaluated as part of the scoping process.

Written comments on the scope of alternatives and potential impacts may be addressed to Mr. John Garvey, GSA Portfolio Management (9PT), Public Buildings Service, 525 Market Street, San Francisco, California 94105. Comments should be sent to GSA by January 22, 1996.

A Draft EIS will be prepared based upon the scoping efforts. After its publication, the Draft EIS will be available for public and agency review and comment. A final EIS will be prepared that addresses the comments on the Draft EIS.

If a sign language interpreter, assistive listening device, or aids for a visual impairment are required please telephone Mr. John Garvey at (415) 744–8113 within five days of the meeting.

Dated: December 27, 1995.

Aki K. Nakao,

Deputy Regional Administrator (9A).

[FR Doc. 96–183 Filed 1–5–96; 8:45 am]

BILLING CODE 6820–23–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Program Announcement Number FDA–CFSAN–96.1 Cooperative Agreement for Shellfish and Seafood Safety Assistance Project; Availability of Funds for Fiscal Year 1996

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA), Center for Food Safety and Applied Nutrition (CFSAN), Office of Seafood (OS), is announcing its intention to award, noncompetitively, a

cooperative agreement to the Interstate Shellfish Sanitation Conference (ISSC) in the amount of $150,000 for the first year. An additional 4 years of support are available, depending upon the availability of Federal funds and successful performance. This effort, authorized by the Public Health Service Act, will enhance FDA's molluscan shellfish sanitation program and provide the public greater assurance of the quality and safety of these products.

FOR FURTHER INFORMATION CONTACT: Robert L. Robins, Office of Facilities, Acquisitions, and Central Services (HFA–522), Food and Drug Administration, Park Bldg., rm. 340, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6170.

Regarding the programmatic aspects of this program contact: Paul W. DiStefano, Office of Seafood, Center for Food Safety and Applied Nutrition (HFS–417), 200 C St. SW., Washington, DC 20204, 202–418–3177.

SUPPLEMENTARY INFORMATION: This project is authorized under section 301 of the Public Health Service Act (42 U.S.C. 241). This activity is generally described in the Catalog of Federal Domestic Assistance at 93.103. This application is not subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs (45 CFR part 100).

This project will enhance both the effectiveness and uniformity of the molluscan shellfish program by: (1) Improving the flow of information between Federal and State regulatory agencies, industry, and the consumer; and (2) strengthening State activities by providing assistance in such areas as procedural and policy guidance, technical training, research, consumer education, and the assurance of conformity to the National Shellfish Sanitation Program (NSSP).

I. Restricted Eligibility

The Commissioner of the Food and Drug Administration, as authorized by the Public Health Service Grants Administration Manual, Part 144.3, has determined that this program should be awarded as a cooperative agreement without competition to the ISSC. Only the ISSC has the established relationships with the necessary State and local governments, the shellfish industry, other Federal agencies, and FDA to achieve the objective of this project. Therefore, no other applications are solicited or will be accepted.

II. Availability of Funds

FDA will fund this cooperative agreement at a level of approximately $150,000 for the first year. An additional 4 years of support will be available, depending upon fiscal year appropriations, continued support from other government agencies, and successful performance. It is anticipated that this cooperative agreement will commence on or before March 1, 1996.

III. Background

Molluscan shellfish have been identified as the source of a majority of seafood-borne illnesses and have become a subject of congressional, industry, and public concern. FDA has therefore given high priority to efforts to enhance the agency program and to provide the public greater assurance of the quality and safety of these products. Unique problems associated with the consumption of raw molluscan shellfish, e.g., oysters, clams, mussels, and scallops, led to establishment of the NSSP in 1925. FDA administers the NSSP and the Manuals of Operation, parts I and II, which serve as guidance for State shellfish sanitation programs and State regulations.

In 1983, the ISSC was formed to provide a formal structure wherein State regulatory authorities can establish updated guidelines and procedures for the uniform application of that guidance for the sanitary control of the shellfish industry. The ISSC is a voluntary organization and is open to all persons interested in fostering controls that will ensure sources of safe and sanitary shellfish. In 1984, FDA recognized the ISSC through a memorandum of understanding and continues to recognize it as the primary voluntary national organization of State shellfish regulatory officials that will provide guidance and counsel to the States on matters of sanitary control of shellfish.

In 1993, FDA awarded a noncompetitive cooperative agreement to ISSC for 1 year and provided support for an additional 2 years because of satisfactory performance. The cooperative agreement expires on February 28, 1996. FDA received $75,000 a year from the Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Services (NMFS) in support of the cooperative agreement. Combined with the NMFS funds, the ISSC cooperative agreement was funded for $165,000 the first year and $150,000 each for the second and third years, for a total of $465,000. Substantive accomplishments over the first 3 years of the cooperative agreement include:

1. Mediation of differences between FDA and States regarding compliance with the NSSP Manuals of Operation;
2. Coordination of FDA/State/NMFS efforts to develop a marine biotoxin dockside testing program;
3. Co-sponsoring of the 1994 *Vibrio vulnificus* workshop;
4. Compilation of a comprehensive collection of *V. vulnificus* reference materials for use by the ISSC;
5. Negotiation and adoption of a *V. vulnificus* water temperature/time to temperature control matrix for reducing the risk of *V. vulnificus* illness;
6. Dissemination of FDA warnings/information to States/industry;
7. Administration of the National Indicator Study;
8. Development of a model shellfish code;
9. Development of a formal process for establishing binding interpretations of the NSSP Manual of Operations;
10. Coordination of the development of a Shellfish Information Management System (SIMS); and
11. Participation in regional shellfish meetings to coordinate national efforts in shellfish sanitation.

IV. Purpose

The ISSC was formed as a partnership of State shellfish control officials representing both environmental and public health agencies; Federal agencies including FDA, the Environmental Protection Agency, and the Department of Commerce, National Marine Fisheries Service; and representatives from industry, academia, and foreign governments and industry. More than 25 States are members of the ISSC, including all 23 coastal shellfish-producing States.

The proposed cooperative agreement with ISSC will continue to: (1) Address the need to improve information exchange and transfer among States, Federal agencies, industry, and consumers; and (2) strengthen State activities by providing them with procedural and policy guidance, technical training, research, and consumer education.

V. Substantive Involvement by the FDA

To achieve the purpose of this project, ISSC shall be responsible for conducting the following activities:

1. Interact with States in resolving problems between States or between FDA and a State regarding conformity to the NSSP;
2. Communicate procedures and policy statements to guide States in executing the NSSP;
3. Interact with States in developing uniform and effective evaluation criteria;
4. Provide program auxiliary support in facilitating State involvement in

technical training, research, consumer education, coordinating the collection of data and maintaining the National Shellfish Register of Classified Estuarine Waters, and coordinating the development of a digitized mapping network (SIMS);

5. Interact with States to implement *V. vulnificus* consumer educational programs, develop risk reduction controls for *V. vulnificus*, and develop criteria for assessing *V. vulnificus* risk reduction controls; and

6. Obtain information from States and industry to provide consistent and coordinated input to FDA and implement a Model Shellfish Code.

FDA will monitor and evaluate the ISSC's conduct under this cooperative agreement. FDA will take any actions that may be necessary to ensure compliance with this cooperative agreement. Future support under this agreement will be contingent upon satisfactory performance of this project and the availability of Federal fiscal year appropriations.

VI. Review Procedure and Evaluation Criteria

A. Review Procedure

The application submitted by the ISSC will undergo dual peer review. The application will be reviewed for scientific and technical merit by a panel of experts based upon the applicable evaluation criteria. If the application is recommended for approval, it will then be presented to the National Advisory Council for their concurrence.

B. Evaluation Criteria

The application will be reviewed and evaluated according to the following criteria:

1. The application clearly states an understanding of the purpose and objectives of the cooperative agreement in the overall seafood safety program; the key role and responsibility of the ISSC; and the steps, with a proposed schedule, for planning, implementing, and accomplishing the activities to be carried out under this project.

2. The application describes the applicant's ability to perform the responsibilities under this project by providing qualified staff. The application also demonstrates that the ISSC has the financial and other resources required for this project.

3. The application specifies the intended approach that ISSC will use to maintain and to continue working with both the States and industry to ensure the exchange of information among the States, industry, and consumers on seafood safety.

4. The application adequately describes how ISSC will maintain and coordinate the collection of data to keep the National Shellfish Register for Classified Estuarine Waters up-to-date. The application also describes how ISSC will coordinate the development of a digitized mapping network.

In addition, the agency will determine whether the estimated cost of the project is reasonable. The application shall include a detailed budget that shows: (1) Anticipated costs for personnel, travel, communications and postage, equipment, and supplies; and (2) the sources of funds to meet those needs.

VII. Reporting Requirements

FDA requires an annual Financial Status Report (FSR) (SF–269). Under FDA procedures, the original and two copies of this report must be submitted to FDA's Grants Management Office within 90 days of the budget period expiration date. An annual project progress report is also required. The contents of this report shall be suggested by the project officer at a later date.

A final project progress report, FSR, and Invention Statement must be submitted within 90 days from the expiration date of the project period as noted on the Notice of Grant Award.

Program monitoring will be conducted on an ongoing basis, and written reports may be done by the project officer. Monitoring may be in the form of telephone conversations between the project officer/grants management specialist and the principal investigator, and site visits may be made by either program or grants management staff. The results of the visits will be recorded in the official grant file and may be available to the grantee upon request.

VIII. Mechanism of Support

Support for this project will be in the form of a cooperative agreement. This agreement will be subject to all policies and requirements that govern the research grant programs of the Public Health Service, including provisions of 42 CFR part 52 and 45 CFR part 74.

Dated: December 28, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 96–229 Filed 1–5–96; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Policy Development and Research

[Docket No. FR–3960–N–02]

Notice of Cancellation of Bidders Conference on Cooperative Agreement Applications for the Community Renaissance Fellows Program

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice of Cancellation of Bidders Conference on Cooperative Agreement Applications for the Community Renaissance Fellows Program.

SUMMARY: On November 30, 1995, HUD published a notice in the Federal Register seeking applications from public and private universities in order to provide funding to develop and implement the educational component of HUD's new Community Renaissance Fellows Program. The notice also announced that HUD would hold a ''bidders'' conference in Washington D.C. on January 11, 1996.

The purpose of this notice is to announce the cancellation of the January 11, 1996 conference due to the partial shutdown of the Federal government. The conference may be rescheduled. No other changes are made to the November 30, 1995 notice by this notice.

DATES: The application deadline of February 15, 1996, as set forth in the November 30, 1995 Federal Register notice (60 FR 61634) remains unchanged at this time.

FOR FURTHER INFORMATION CONTACT: Marcia Feld, Office of University Partnerships in the Office of Policy Development and Research, U.S. Department of Housing and Urban Development, 451 7th Street, S.W., Room 8110, Washington, DC 20410. Telephone number (202) 708–3061, ext. 262, voice (this is not a toll free number); 1–800–877–TDDY (TDD). Ms. Feld can also be contacted via the Internet at Marcia__M.__Feld@hud.gov.

SUPPLEMENTARY INFORMATION:

Background

On November 30, 1995 (60 FR 61634), HUD published a notice in the Federal Register seeking applications from public and private universities in order to provide funding to develop and implement the educational component of HUD's new Community Renaissance Fellows Program. The program will place 20 Fellows in distressed public housing developments undergoing conversion, for example, to mixed-income or mixed-use projects. HUD hopes, with the assistance of private foundations, to place additional Fellows in comparable projects being undertaken by community development corporations.

The November 30, 1995 notice also announced that HUD would hold a ''bidders'' conference on January 11, 1996. The purpose of this conference was to explain, in more detail, the background behind this solicitation and clarify application requirements.

Cancellation of Bidders Conference

Because of the partial shutdown of the Federal government, the ''bidders'' conference scheduled for January 11, 1996 in Washington, D.C. *is canceled.* It may be rescheduled.

No Other Changes to the November 30, 1995 Notice

No other changes are made to the November 30, 1995 notice by this supplementary notice.

Dated: January 3, 1996.

Michael A. Stegman,

Assistant Secretary for Policy Development and Research.

[FR Doc. 96–232 Filed 1–5–96; 8:45 am]

BILLING CODE 4210–62–P

Office of the Assistant Secretary for Community Planning and Development

[Docket No. FR–3937–N–03 and No. FR–3945–N–03]

Notice of Extension of Due Date for Notice of Funding Availability for FY 1995 Historically Black Colleges and Universities Program To Establish Community Development Corporations and Projects With Units of General Local Government

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of Extension of Due Date announced in Notice of Funding Availability (NOFA) for Fiscal Year (FY) 1995.

SUMMARY: This notice extends to January 26, 1996 the application due date for two FY 1995 Historically Black Colleges and Universities (HBCU) Program competitions: (1) To establish Community Development Corporations (CDCs) on HBCU Campuses (FR–3937); and (2) Program with Units of General Local Government (FR–3945). These NOFAs were published in the Federal Register on September 29, 1995 (60 FR 50700). Extensions of the original application deadline for these competitions were published in the Federal Register on November 8, 1995 (60 FR 56348). The deadlines are extended again by this notice to January 26, 1996.

DATES: No applications will be accepted after 4:30 p.m. on January 26, 1996. This application deadline is firm as to date and hour. In the interest of fairness to all competing applicants, the Department will treat as *ineligible for consideration* any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems. *Applications may not be submitted by facsimile (FAX).*

ADDRESSES: FOR AN APPLICATION KIT, CONTACT: Processing and Control Branch, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW., Room 7251, Washington, DC 20410–3500. ATTN: HBCU Program. Requests must be in writing and may be sent to this address or may be made by facsimile machine to the following number: 202–708–3363. The toll-free TDD number for the hearing impaired is 1–800–877–8339. When requesting an application kit, please refer to document FR–3937 (for the CDC competition) or FR–3945 (for the Local Government competition). They may be requested together.

APPLICATION SUBMISSION: An original and three copies of the completed application must be submitted to the following address: Processing and Control Branch, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW., Room 7251, Washington, DC 20410–3500. Attention: HBCU Program. If application is made to both competitions, separate sets of applications must be submitted clearly indicating which competition.

FOR FURTHER INFORMATION, CONTACT: The Historically Black Colleges and Universities staff in the Office of Community Planning and Development: Yvette Aidara at 202–401–7912 or Delores Pruden at 202–401–6362. (These are not toll-free numbers.) The toll-free TDD number for the hearing impaired is 1–800–877–8339. The address is: 451 7th Street SW., Room 7212, Washington, DC 20410.

SUPPLEMENTARY INFORMATION: On September 29, 1995, HUD published two FY 1995 HBCU NOFAs: one announcing up to $2.5 million of FY 1995 funding for HBCUs to establish Community Development Corporations and one announcing up to $1.5 million of FY 1995 funding for HBCUs to undertake jointly funded construction/reconstruction projects with units of general local government. The application due dates were given as November 28, 1995. That date was extended to January 11, 1996 for the CDC competition and to January 12, 1996 for the joint local government competition. Since the HUD Fiscal Year 1996 appropriations bill has not been signed, resulting in a disruption of HUD operations, the deadline is again extended. In order to provide more time for the preparation of applications and for technical assistance from HUD's HBCU staff, this deadline extends the application due date to January 26, 1996 for both competitions.

Dated: January 2, 1996.

Andrew Cuomo,

Assistant Secretary Community Planning and Development

[FR Doc. 96–267 Filed 1–4–96; 12:02 pm]

BILLING CODE 4210–29–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Public Meeting With Interested Vendors for Ordering Reproductions of Still Photographs, Aerial Film, Maps, and Drawings

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of meeting.

SUMMARY: NARA will hold a meeting to discuss the continued privatization of reproduction services for still pictures, aerial film, maps, and drawings. On March 6, 1995, NARA began a test phase of new procedures for the delivery of reproduction services for records which NARA customers request from the Still Picture Branch (NNSP), the Cartographic and Architectural Branch (NNSC), and the Nixon Presidential Materials Staff (NLNP). NARA permitted vendors to set up work stations in College Park, MD, where the still photographs and cartographic and architectural records are housed and made available. The three units referred customer requests for reproduction of these media to the vendors, who determined fees, collected payments, performed the copying work, and mailed the reproductions to the customers. The purpose of this one-year trial program was to: (1) verify the degree to which the privatization of the reproduction order fulfillments of

NNSP, NNSC, and NLNP could improve customer service; and (2) ascertain the extent to which digital scanning can satisfy requirements from NARA's customers. NARA has decided to extend the program for one more year, with some changes. All vendors interested in this program, including vendors already participating, are invited to attend the next scheduled meeting on January 24, 1996. A follow-up meeting has also been scheduled for February 15, 1996, to answer any remaining questions from possible vendors, and to distribute copies of the memorandum of agreement.

DATES: The next meeting will be held on Wednesday, January 24, 1996, at 2 p.m. The follow-up meeting will be held on Thursday, February 15, 1996, at 2 p.m.

ADDRESSES: The meetings will be held in Archives II, lecture rooms D and E, located at 8601 Adelphi Road, College Park, MD.

FOR FURTHER INFORMATION CONTACT: Michael Goldman, Administrative Staff, at 301–713–7010.

Dated: January 2, 1996.

Michael J. Kurtz,

Assistant Archivist for the National Archives.

[FR Doc. 96–198 Filed 1–5–96; 8:45 am]

BILLING CODE 7515–01–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget (OMB) Review

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment. The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

1. Type of submission, new, revision, or extension: Revision.
2. The title of the information collection: 10 CFR Part 61—Licensing Requirements for Land Disposal of Radioactive Waste
3. The form number if applicable: Not applicable.
4. How often the collection is required: Applications for licenses are submitted once. Applications for renewals or amendments are submitted as needed. Other reports are submitted annually and as other events require.
5. Who will be required or asked to report: Applicants for and holders of an NRC license for land disposal of low-level radioactive waste, and all generators, collectors, and processors of low-level waste intended for disposal at a low-level waste facility.
6. An estimate of the number of responses: 146.
7. The estimated number of annual respondents: 14
8. An estimate of the total number of hours needed annually to complete the requirement or request: 7,538 (approximately 3.5 hours per response and 506 hours per recordkeeper).
9. An indication of whether Section 3507(d), Pub. L. 104–13 applies: Not applicable.
10. Abstract: 10 CFR Part 61 establishes the procedures, criteria, and license terms and conditions for the land disposal of low-level radioactive waste. Reporting and recordkeeping requirements are mandatory or, in the case of application submittals, are required to obtain a benefit. The information collected in the applications, reports, and records is evaluated by the NRC to ensure that the licensee's or applicant's physical plant, equipment, organization, training, experience, procedures and plans provide an adequate level of protection of public health and safety, common defense and security, and the environment.

A copy of the submittal may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (Lower Level), Washington, DC. Members of the public who are in the Washington, DC, area can access the submittal via modem on the Public Document Room Bulletin Board (NRC's Advance Copy Document Library) NRC subsystem at FedWorld, 703–321–3339. Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 1–800–303–9672, or use the FedWorld Internet address: fedworld.gov (Telnet). The document will be available on the bulletin board for 30 days after the signature date of this notice. If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608.

Comments and questions should be directed to the OMB reviewer by February 7, 1996: Troy Hillier, Office of Information and Regulatory Affairs (3150–0135), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 415–7233.

Dated at Rockville, Maryland, this 28th day of December 1995.

For the Nuclear Regulatory Commission.

Arnold E. Levin,

Acting Designated Senior Official for Information Resources Management.

[FR Doc. 96–207 Filed 1–05–96; 8:45 am]

BILLING CODE 7590–01–P

NUREG; Issuance, Availability

The Nuclear Regulatory Commission has recently published ''Reassessment of NRC's Dollar Per Person—Rem Conversion Factor Policy,'' NUREG–1530. The conversion factor establishes the basis for translating radiological exposure to a monetary value and as such allows direct comparison between the potential health and safety benefits and the costs of a proposed regulatory initiative. This cost benefit tradeoff is an important consideration in NRC regulatory decisions. The new conversion factor policy discussed in this document has been incorporated in ''Regulatory Analysis Guidelines of the U.S. Nuclear Regulatory Commission,'' NUREG/BR–0058, Revisions 2, November 1995.

Copies of NUREG–1530 may be purchased from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20402–9328. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. A copy is also available for inspection and/or copying for a fee in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC 20555–0001.

Members of the public who wish to comment on this NUREG-series report may do so, and on the basis of these comments, the NRC holds open the possibility of revising this policy in the future.

Mail comments to: Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Mail Stop T–6 D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Comments may be hand-delivered to 11545 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m. on Federal workdays.

Dated at Rockville, Maryland, this 29 day of December 1995.

Bill M. Morris,

Director, Division of Regulatory Applications, Office of Nuclear Regulatory Research.

[FR Doc. 96–211 Filed 1–5–96; 8:45 am]

BILLING CODE 7590–01–M

[No. IA 95–058]

Five Star Products, Inc. and Construction Products Research Fairfield, Connecticut and H. Nash Babcock; Stipulation Between Nuclear Regulatory Commission and Five Star Products, Inc., Construction Products Research, Inc., and H. Nash Babcock

Representatives of the Nuclear Regulatory Commission (''NRC'') and Five Star Products, Inc., Construction Products Research, Inc. (''the Companies''), and H. Nash Babcock have met and have decided to resolve this matter as addressed in this Stipulation as set out below.

Stipulation

The NRC, the Companies, and H. Nash Babcock stipulate to the following:

1. The Companies and H. Nash Babcock are free to sell commercial-grade products to anyone in the nuclear industry, as they now do. ''Commercial-grade'' is defined as in 10 CFR Part 21 of the Commission's regulations. Five Star Products' commercial-grade materials may be used in any safety-related applications provided that NRC licensees properly dedicate the materials for use as basic components and verify their suitability for the applications. As of the date of the settlement, NRC has not evaluated the quality of Five Star Products' materials, nor has the NRC received reports that Five Star Products' materials contain defects.

2. The NRC hereby relaxes and modifies paragraph 1 and 2 of Section VI of the Order as follows:

''1. Until the Companies or H. Nash Babcock or any concern which is owned, controlled, operated or managed by H. Nash Babcock, satisfy the provisions of paragraph 2 below, they are prohibited from:

A. providing or supplying structures, systems, or components, including grout and concrete, subject to a procurement contract specifying compliance with 10 C.F.R. Part 50 Appendix B; and

B. providing or supplying basic components, including grout and concrete, subject to a procurement contract specifying that the contract is subject to the requirements of 10 CFR Part 21;

2.A. If the Companies, or any concern owned, controlled, operated or managed by H. Nash Babcock, desire to lift the prohibitions specified in paragraph 1.A and 1.B, above, then the Companies, H. Nash Babcock, or the concern owned, controlled, operated, or managed by H. Nash Babcock, shall, at least 90 days prior to the date it desires to have the prohibition lifted:

(1) Advise the NRC of that intent in writing;

(2) Deleted.

(3) Agree in writing, under oath or affirmation, and in fact, to permit the NRC, NRC licensees, and contractors performing QA functions for such licensees, to inspect the records, premises, basic components and activities of the Companies or of any concern owned, controlled, operated or managed by H. Nash Babcock that desires to provide safety-related products or basic components, or to perform tests to support claims that those products or components and those testing services meet the standards of 10 CFR Part 50 Appendix B and 10 CFR Part 21, and to signify in writing a willingness to do so in the future;

(4) Agree in writing under oath or affirmation to demonstrate and in fact to demonstrate that those basic components and services associated with basic components meet the standards of 10 CFR Part 50 Appendix B by having tests performed by a mutually acceptable third party and having that third party provide copies of the results of those tests directly to the NRC; and

(5) The officers, managers, and supervisors of the Companies provide statements that they understand that the activities and records of the organization are subject to NRC inspection and that communications with the NRC must be complete and accurate;

B. When all conditions of paragraph 2.A above have been satisfied, and the NRC has conducted inspections of the QA program and Part 21 program of the Companies or of any concern owned, controlled, operated, or managed by H. Nash Babcock, and any necessary corrective action has been completed, the prohibitions of paragraphs 1.A and 1.B, above, will be lifted in writing.''

3. Except for the enforcement action reflected in the above-relaxed Order and this Stipulation, the NRC will neither impose, nor seek to impose, any sanction (other than as set forth in the relaxed Order and Stipulation) on the Companies or their officers and employees or H. Nash Babcock for the alleged violations described in the NRC Order issued on December 1, 1995.

4. All matters involving the termination of employment of Mr. Edward P. Hollub are not covered by, or affected by, this Stipulation, the Stipulation is without prejudice to the parties' positions with respect to the Commission's jurisdiction or lack thereof over employment matters, and the NRC, the Companies, any other related company, and H. Nash Babcock retain all rights in any such case, matter, proceeding, or litigation now pending or which may hereinafter be instituted.

5. In light of this Stipulation, the Companies and H. Nash Babcock agree not to request a hearing on the matters addressed in the Order issued on December 1, 1995 and relaxed as described herein, despite their vigorous disagreement with some of the allegations contained in the December 1, 1995 Order.

6. The NRC, the Companies, and H. Nash Babcock agree that the allegations in the Order have not been made subject to an evidentiary hearing, and that this Stipulation will obviate the necessity for such a hearing, and they therefore agree that those allegations shall not estop any party from taking a different position on such matters in any other case, litigation, matter, or proceeding.

7. The Order as relaxed herein shall be effective upon execution of this Stipulation. This Stipulation shall be published in the Federal Register.

8. The persons signing below certify by their signatures that they have authority to sign this Stipulation for the entities appearing below their names.

Dated: December 28, 1995.

For the United States Nuclear Regulatory Commission.

James Lieberman,

Director, Office of Enforcement, U.S. Nuclear Regulatory Commission.

Washington, DC 20555–0001

(301) 415–2741

Michael F. McBride,

LeBoeuf, Lamb, Greene & MacRae, L.L.P.

1875 Connecticut Avenue, NW.,

Suite 1200

Washington, DC 20009–5728

(202) 986–8000

Attorney for Five Star Products, Inc., Construction Products Research, Inc., and H. Nash Babcock.

[FR Doc. 96–212 Filed 1–5–96; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–284]

Idaho State University; Notice of Consideration of Application for Renewal of Facility License

The United States Nuclear Regulatory Commission (the Commission) is considering renewal of Facility License No. R–110, issued to the Idaho State University (ISU) for operation of the Idaho State University AGN–201 reactor located on the ISU campus in the city of Pocatello, Idaho.

The renewal would extend the expiration date of Facility License No. R–110 for twenty years from date of issuance, in accordance with the licensee's timely application for renewal dated November 21, 1995.

Prior to a decision to renew the license, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

Within thirty days of publication of this notice, the licensee may file a request for a hearing with respect to renewal of the subject facility license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC 20037. If a request for a hearing or petition for leave to intervene is filed within the time prescribed above, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion and the petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC within the time prescribed above. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 325–6000 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Seymour H. Weiss: petitioner's name and telephone number; date petition was mailed; Idaho State University; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Mr. J. Kelley Wiltbank, General Counsel, Idaho State University, P.O. Box 8410, Pocatello , Idaho 83209, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for renewal dated November 21, 1995, which is available for public inspection at the Commission's Public Document Room at 2120 L Street, NW, Washington, DC 20555.

Dated at Rockville, Maryland, this 28th day of December 1995.

For the Nuclear Regulatory Commission.

Seymour H. Weiss,

Director, Non-Power Reactors and Decommissioning Project Directorate, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 96–208 Filed 1–5–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket Number 40–0299]

Amendment to Change a Reclamation Milestone Date in Source Material License SUA–648 Held by Umetco Minerals Corporation

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Amendment of Source Material License SUA–648 to change a reclamation milestone date.

SUMMARY: Notice is hereby given that the U.S. Nuclear Regulatory

Commission has amended Umetco Mineral Corporation's (Umetco's) Source Material License SUA–648 to change a reclamation milestone date. This amendment was requested by Umetco by letter dated October 11, 1995, and its receipt by NRC was noticed in the Federal Register on November 6, l995.

The license amendment modifies License Condition 59 to change the completion date for a site-reclamation milestone. The new date approved by the NRC extends completion of placement of final radon barrier on the Heap Leach impoundment by two years. Umetco attributes the delay to the following factors: (1) At present there is no approved reclamation plan for the Heap Leach impoundment, partly because of delay in seismic evaluation of the site by the NRC staff; (2) Radium concentrations in the outslopes of the Heap Leach impoundment have been identified that may require redesign of this feature to comply with 10 CFR Part 40, Appendix A, Criterion 6(b); and (3) Umetco has decided, in a good faith effort, to upgrade the final design to provide the necessary and reasonable assurance that the longevity goals will be satisfied. Based on review of Umetco's submittal, the NRC staff concludes that the delay is attributable to factors beyond the control of Umetco, the proposed work is scheduled to be completed as expeditiously as practicable, and the added risk to the public health and safety is not significant.

An environmental assessment is not required since this action is categorically excluded under 10 CFR 51.22(c)(11), and an environmental report from the licensee is not required by 10 CFR 51.60(b)(2).

SUPPLEMENTARY INFORMATION: Umetco's license, including an amended License Condition 59, and the NRC staff's technical evaluation of the amendment request are being made available for public inspection at the Commission's Public Document Room at 2120 L Street, NW (Lower Level), Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Mohammad W. Haque, High-Level Waste and Uranium Recovery Projects Branch, Division of Waste Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301) 415–6640.

Dated at Rockville, Maryland, this 29th day of December 1995.

Daniel M. Gillen,

Acting Chief, High-Level Waste and Uranium, Recovery Projects Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 96–209 Filed 1–05–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket Nos. 50–280 and 50–281]

Virginia Electric and Power Company Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment Nos. 207 and 207 to Facility Operating License Nos. DPR–32 and DPR–37 issued to the Virginia Electric and Power Company (the licensee), which revised the Technical Specifications for operation of the Surry Power Station, Units 1 and 2 located in Surry County, Virginia. The amendments are effective as of the date of issuance.

The amendments modified the Technical Specifications to revise the reactor vessel pressure/temperature limit and an associated low temperature overpressure protection system setpoint.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing in connection with this action was published in the Federal Register on August 4, 1995 (60 FR 39978). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of the amendments will not have a significant effect on the quality of the human environment (60 FR 54710).

For further details with respect to the action see (1) the application for amendments dated June 8, 1995, (2) Amendment No. 207 to License Nos. DPR–32 and DPR–37, (3) the Commission's related Safety Evaluation, and (4) the Commission's Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, and at the local public document room located at the Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Dated at Rockville, Maryland, this 28th day of December, 1995.

For the Nuclear Regulatory Commission.

Bart C. Buckley,

Senior Project Manager, Project Directorate II–1, Division of Reactor Projects—I/II Office of Nuclear Reactor Regulation.

[FR Doc. 96–210 Filed 1–5–96; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Notice of Availability of the Procurement Regulatory Activity Report, Number 12

AGENCY: Office of Management and Budget, Office of Federal Procurement Policy.

SUMMARY: Subsections 25(g) (1) and (2) of the Office of Federal Procurement Policy (OFPP) Act, as amended by Public Law 100–679, codified at 41 U.S.C. § 421(g), require the Administrator for Federal Procurement Policy to publish a report within six months after the date of enactment and every six months thereafter relating to the development of procurement regulations.

Accordingly, OFPP has prepared this report, which is designed to satisfy all aspects of subsections 25(g)(1) and (2) of the OFPP Act, and includes information on the status of each regulation; a description of those regulations required by statute; a description of the methods by which public comment was sought; regulations, policies, procedures, and forms under review by the OFPP; whether the regulations have paperwork requirements; the progress made in promulgating and implementing the Federal Acquisition Regulation; and such other matters as the Administrator determines to be useful.

ADDRESSES: Those persons interested in obtaining a copy of the Procurement Regulatory Activity Report may contact the Executive Office of the President Publications Service, Room 2200, 725 17th Street, NW, Washington, DC 20503, or call 202–395–7332.

ADDITIONAL INFORMATION: For additional information write the Office of Federal Procurement Policy, 725 17th Street, NW, Washington, DC 20503 or call 202–395–6803.

Dated: January 2, 1996.

Steven Kelman,

Administrator.

[FR Doc. 96–184 Filed 1–5–96; 8:45 am]

BILLING CODE 3110–01–P

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A and B, and placed under Schedule C in the excepted service, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Patricia Paige, (202) 606–0830.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR 213 on December 15, 1995 (60 FR 64457). Individual authorities established or revoked under Schedules A and B and established under Schedule C between November 1, 1995, and November 30, 1995, appear in the listing below.

Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities as of June 30 will also be published.

Schedule A

No Schedule A authorities were established.

The following exception was revoked:

Federal Housing Finance Board

Section 213.3187 (Revoked).

Schedule B

No Schedule B authorities were established or revoked November 1995.

Schedule C

The following Schedule C authorities were established in November 1995.

Commission on Civil Rights

Special Assistant to the Commissioner. Effective November 21, 1995.

Department of Agriculture

Confidential Assistant to the Chief, Natural Resources Conservation Service. Effective November 22, 1995.

Director, Legislative Affairs to the Under Secretary, Cooperative State Research, Education and Extension Service. Effective November 22, 1995.

Confidential Assistant to the Administrator, Rural Utilities Service. Effective November 30, 1995.

Confidential Assistant to the Administrator, Consolidated Farm Service Agency. Effective November 30, 1995.

Department of Commerce

Director, National Information Infrastructure Initiatives to the Assistant Secretary for Communications and Information. Effective November 3, 1995.

Confidential Assistant to the Director, Office of Legislative Affairs. Effective November 9, 1995.

Congressional Affairs Specialist to the Director, Office of Legislative Affairs, National Oceanic and Atmospheric Administration. Effective November 9, 1995.

Senior Advisor for Policy and Planning to the Under Secretary for International Trade, International Trade Administration. Effective November 20, 1995.

Special Assistant to the Senior Policy Advisor. Effective November 30, 1995.

Deputy Assistant Secretary for Textiles, Apparel and Consumer Goods to the Assistant Secretary for Trade Development. Effective November 30, 1995.

Confidential Assistant to the Deputy Assistant Secretary for Textiles, Apparel and Consumer Goods. Effective November 30, 1995.

Department of Defense

Speechwriter to the Assistant to the Secretary of Defense for Public Affairs. Effective November 3, 1995.

Personal and Confidential Assistant to the Defense Advisor, U.S. Mission to NATO. Effective November 3, 1995.

Defense Fellow to the Deputy Assistant Secretary of Defense (European and NATO Policy). Effective November 13, 1995.

Staff Assistant to the Special Assistant to the Principal Deputy Under Secretary of Defense (Policy). Effective November 13, 1995.

Staff Specialist for Cuban Affairs to the Deputy Assistant Secretary of Defense (Inter-American Affairs). Effective November 30, 1995.

Department of Education

Confidential Assistant to the Special Advisor to the Secretary. Effective November 22, 1995.

Special Assistant to the Assistant Secretary, Office of Intergovernmental and Interagency Affairs. Effective November 22, 1995.

Special Assistant to the Deputy Under Secretary. Effective November 22, 1995.

Department of Energy

Special Assistant to the Director, Office of Worker and Community Transition. Effective November 2, 1995.

Senior Advisor to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective November 3, 1995.

Department of Health and Human Services

Director, Office of Scheduling to the Chief of Staff, Office of the Secretary. Effective November 7, 1995.

Deputy Chief of Staff to the Chief of Staff. Effective November 7, 1995.

Director of Speech writing to the Deputy Assistant Secretary for Public Affairs (Media). Effective November 13, 1995.

Confidential Assistant (Scheduling) to the Director of Scheduling. Effective November 22, 1995.

Congressional Liaison Specialist to the Deputy Assistant Secretary for Legislation (Congressional Liaison). Effective November 22, 1995.

Department of Labor

Special Assistant to the Assistant Secretary for Policy. Effective November 13, 1995.

Special Assistant to the Executive Secretary. Effective November 13, 1995.

Chief of Staff to the Assistant Secretary for Public Affairs. Effective November 22, 1995.

Chief of Staff to the Assistant Secretary for Policy. Effective November 22, 1995.

Department of State

Foreign Affairs Officer to the Deputy Assistant Secretary, Bureau of Public Affairs. Effective November 3, 1995.

Department of Transportation

Special Assistant to the Assistant to Secretary and Director of Public Affairs. Effective November 3, 1995.

Special Assistant to the Associate Director for Media Relations and Special Projects. Effective November 3, 1995.

U.S. International Trade Commission

Staff Assistant (Legal) to the Chairman. Effective November 28, 1995.

United States Information Agency

Special Assistant to the Director, Office of Citizen Exchanges, Bureau of Educational and Cultural Affairs. Effective November 1, 1995.

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., P.218.

Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 96–199 Filed 1–5–96; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–36647; File No. SR–CBOE–95–36]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving and Notice of Filing and Order Granting Accelerated Approval of Amendments No. 1 and 2 to a Proposed Rule Change Relating to the Transfer of Positions on the Floor of the Exchange in Cases of Dissolution and other Situations

December 28, 1995.

I. Introduction

On July 13, 1995, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposal to adopt new CBOE Rule 6.49A, which would: (i) Identify certain transfers of options positions not subject to the requirements contained in CBOE Rule 6.49 that generally requires transactions of option contracts listed on the Exchange for a premium in excess of $1.00 to be effected on the floor of the Exchange or on another exchange; (ii) provide for the Exchange President to grant exemptions from the general Rule 6.49 on-floor requirement; and (iii) establish an optional procedure for transferring positions on the floor of the Exchange in cases of dissolution and other situations. The proposed rule change was published for comment and appeared in the Federal Register on September 25, 1995.[3] On December 20, 1995, the CBOE filed Amendment No. 1 to its proposal,[4] and on December 21, 1995, the CBOE filed Amendment No. 2 to its proposal.[5] No comments were received regarding the CBOE's proposal. This order approves the proposal.

II. Description of the Proposal

The Exchange has a long-standing policy of prohibiting off-floor transfers of option positions between accounts, individuals, or entities where a change in beneficial ownership would result. The Exchange, however, previously has made exceptions to this general policy under certain limited circumstances, allowing otherwise prohibited transactions to be completed off the floor of the Exchange.

The CBOE's proposal seeks to formalize the Exchange's policies in this area by adopting Rule 6.49A, which provides for the off-floor transfer of positions based on certain specified exemptions, or as approved by the Exchange's President when in the President's judgement the market value of the Transferor's business will be comprised by having to comply with this requirement or when market conditions make transfer on the floor impractical. Situations in which members will be permitted to effect off-floor transfers under the proposed rule include: (i) The dissolution of a joint account in which the remaining member assumes the positions of the joint account, (ii) the dissolution of a corporation or partnership in which a former nominee of the corporation or partnership (*i.e.*, a shareholder or partner, respectively) assumes the positions, (iii) the transfer of positions as part of a member's capital contribution to a new joint account, partnership, or corporation, (iv) the donation of positions to a not-for-profit corporation, (v) the transfer of positions to a minor under the ''Uniform Gifts to Minor'' law, and (vi) a merger or acquisition where continuity of ownership or management results.

Because the Exchange recognizes that there may be other circumstances where an off-floor transfer may be justified, such as emergency transfers of a firm's positions in bulk during a market crisis, it also is proposing to allow the Exchange's President to grant an exemption from CBOE Rule 6.49(a) on his own motion or upon application of the Transferor. Such exemptions may be granted when in the President's judgement the market value of the Transferor's business will be compromised by having to comply with this requirement or market conditions make transfer on the floor impractical.

In addition, proposed CBOE Rule 6.49A establishes a special procedure to permit options positions to be offered on the floor of the Exchange in the event that the positions are being transferred as part of a sale or disposition of all or substantially all of the assets or options positions of the transferring Exchange member or member organization (''Transferor''). The purpose of this portion of the proposal is to establish a special on-floor procedure that ensures that the transferring member gets the best possible price for that member's positions and that other members of the Exchange have an adequate opportunity to make bids and offers on positions that are being transferred.

The special on-floor procedure established by the proposed rule also may be used by market makers who, for reasons other than a forced liquidation, such as an extended vacation, wish to liquidate their entire, or nearly their entire, open positions in a single set of transactions. As the procedure established by the proposed rule is not meant to replace the normal Exchange auction market, however, repeated and frequent use of the proposed rule by the same member will not be permitted.

Pursuant to the proposal, the special on-floor procedure provides that a Transferor may offer a set of options or other financial instruments as a package (''Transfer Package''), to be bid upon at a net debit or credit for the entire Transfer Package. A single Transfer Package may include no more than one class of option listed on the Exchange, but also may include stock or other securities. A Transferor may offer

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

[3] See Securities Exchange Act Release No. 36241 (September 15, 1995), 60 FR 49430.

[4] In Amendment No. 1, the CBOE modifies proposed CBOE Rule 6.49A(a) to make clear the general proposition that all transactions in CBOE options must be brought to the floor, unless permitted to be done elsewhere by CBOE Rule 6.49, and the paragraph establishes an optional procedure for transferring certain of these positions. In addition, Proposed Interpretation .02 is moved into the text of the rule. Amendment No. 1 also modifies proposed CBOE Rule 6.49A(d), which would authorize the President of the CBOE to grant exemptions from the rule's requirement to bring positions to the floor, by making the guidelines under which the President is to evaluate the exemption request more straightforward and objective; and by making it clear that the exemption is from the requirement to bring the position to the floor and not an exemption from the procedure, since the use of the procedure set forth in proposed 6.49A(c) is an optional procedure. Letter from Timothy Thompson, CBOE, to Michael Walinskas, Branch Chief, Division of Market Regulation (''Division''), Commission, dated December 20, 1995.

[5] In Amendment No. 2, the CBOE seeks to clarify the relationship between Rule 6.49 and proposed Rule 6.49A. Rule 6.49(a) describes the types of transactions in CBOE options which are required to be transacted on the floor of the Exchange or on another exchange that trades such options. Amendment No. 2 eliminates similar language from proposed Rule 6.49A. Thus, the list of transactions described in proposed Rule 6.49A(a)(1) are exceptions to the general requirement set forth in Rule 6.49(a). Letter from Timothy Thompson, CBOE, to Michael Walinskas, Branch Chief, Division, Commission, dated December 21, 1995 (''Amendment No. 2'').

multiple Transfer Packages on the floor at the same time or on the same day. Moreover, a member or member organization may make an aggregate bid or offer for any number of Transfer Packages offered by a single Transferor. In the event that the aggregate bid or offer is superior to the combination of the individual best bids or offers for the individual Transfer Packages, the Transferor will be allowed to accept that aggregate bid or offer for a combination of, or all of, the Transfer Packages. The Exchange believes that allowing the Transferor to accept aggregate bids or offers will ensure that the Transferor gets the best possible price for his positions.[6]

Any Transfer Package consisting of positions both in an option class and in other financial instruments must be offered at the Exchange's Flexible Exchange Options (''FLEX'') post, and will be subject to many of the procedures established for trading FLEX options.

Any Transfer Package consisting solely of positions in one option class that does not include stock or other securities will be offered by the Transferor at the post at which that options class is traded (''Post-Specific Transfer Packages''). Components of Post Specifer Transfer Packages should be individually priced and reported and will be subject to the Exchange's ordinary procedures for trading options.

Any firm submitting a Transfer Package will be required to designater a member of the exchange or a person associated with a member to represent the order on the floor of the Exchange. This designee must be available on the Exchange floor to answer questions regarding the Transfer Package during the entire Request Response Time (as defined below). In addition, notice must be given to the Order Book Official of each post (or the Designated Primary Market Maker, as appropriate) where a component of the Transfer Package trades.

Following the offer of the Transfer Packages, interested members of the Exchange will be given two hours to submit a bid for one or any combination of the Transfer Packages offered by the Transferor (''Response Request Time'').[7]

At the end of the Response Request Time, the Transferor will be allowed to accept the best bid or offer (''BBO'') for any individual Transfer Package, or for any combination of Transfer Packages if the bid or offer for the combination is superior to the aggregate of the individual bids or offers for the individual Transfer Packages.[8] Acceptance of a BBO creates a binding contract under CBOE Rule 6.48, however, a Transferor is not obligated to accept a BBO. If the Transferor chooses not to accept the BBO for the Transfer Packages, the Transferor may offer the positions in any Transfer Package the next day. Because the Exchange intends for its proposal to be a transfer procedure and not a price discovery mechanism, the Transferor will require the permission of the President of the Exchange to offer the positions on the Exchange floor for any day subsequent to the second day.

Bids and offers will be made on a net debit or credit basis for entire Transfer Packages. In the event that a particular Transfer Package contains stock positions or other positions whose transfer must be transacted on another exchange pursuant to applicable law or regulation (''Off Floor Portions''), then any accepted quote for the Transfer Package shall give rise to a contract for the option portion of the Transfer Package, the price of which is contingent on the price at which those other portions of the Transfer Package are transacted. The price at which the options position shall be transacted is the price that is required to have the entire Transfer Package trade at the agreed upon net debit or credit, taking into consideration the prices at which the Off Floor Portions have been transacted. All transactions that are required to be completed must be completed in time to allow the option portion to be transacted by the end of the trading day.

In the event that a transaction in a non-CBOE listed component of the Transfer Package cannot be completed in a timely manner due to a trading halt, an operational problem outside the control of the parties, or the closing of the applicable market before the transaction can be completed, the trade for the option portion of the trade may be canceled at the election of any member that is a party to that trade.

To the extent possible, equal bids for Transfer Packages will be split equally among the parties submitting the equal bids, or will be split in such a manner as may be agreed upon by the submitting parties.

III. Discussion

The Commission finds the proposed rule change consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act because the proposal is designed to promote just and equitable principles of trade, foster cooperation with persons engaged in facilitating and clearing transactions in securities, and protect investors and the public interest.

The Commission believes that the CBOE's proposal clearly delineates the exceptions to CBOE Rule 6.49(a)'s general requirement that all CBOE members' transactions in CBOE options be effected on the floor of an exchange.[9] In the Commission's opinion, it is appropriate for the CBOE to provide for transfers to occur off the floor of the Exchange in certain situations. Thus, the proposal envisions allowing off-floor transfers in several narrowly-defined situations where the transfer results in some degree of continuity in the ownership or management of the position or transfer is necessitated by certain legal or similar reasons, or where the President of the Exchange judges that the market value of the Transferor's business will be compromised, or judges that market conditions make the transfer process impractical.[10] The Commission believes that it is reasonable and consistent with the Act to provide for off-floor transfers to be effected under these circumstances.

The Commission believes that the special on-floor procedures are designed to extend the benefits of an auction marketplace to the transactions outlined in Rule 6.49A(b)(1). More specifically, the special on-floor procedures proposed by the CBOE should expose the affected positions to the auction market, albeit in a somewhat different manner than governed by regular trading procedures.

The Commission finds food cause for approving Amendments No. 1 and 2 to the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the

[6] Telephone conversation between Tim Thompson, Senior Attorney, Legal Department, CBOE, and Brad Ritter, Office of Market Supervision, Division of Market Regulation, Commission, on July 25, 1995 (''July 25 Conservation'').

[7] The two hour time could be shortened or lengthened with the approval of the President. Any Transfer Package offered after 1:00 p.m., Chicago time, will require the prior approval of the President. The proposed rule will prevent the President from permitting offers to be brought after 2:30 p.m., Chicago time.

[8] For example, if a Transferor offers four Transfer Packages, and following the Request Response Time, the Transferor receives bids for three of the Transfer Packages and one aggregate bid for all four Transfer Packages, then, if the aggregate bid is greater than the sum of the best individual bids for the three Transfer Packages, the Transferor may accept the aggregate bid and transfer all four Transfer Packages. See July 25 Conversation, *supra* note 6.

[9] See Amendment No. 2, *supra* note 5.

[10] See Amendment No. 1, *supra* note 4.

Federal Register. The Commission believes that Amendments No. 1 and 2 benefit the Exchange's proposal by clarifying the relationship between the proposed rule and existing Exchange Rule 6.49. The Amendments also revise the language concerning the exemptions from the general requirement of Rule 6.49(a) that transactions in CBOE options be effected on the floor of the CBOE or other exchange. The Commission believes that the amendments clarify the existing terms of the CBOE's proposal, rather than make any substantive changes. Based on the foregoing, the Commission believes it is consistent with Section 6(b)(5) of the Act to approve Amendments No. 1 and 2 to the Exchange's proposal on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendments No. 1 and 2 to the proposed rule change. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CBOE–95–36 and should be submitted by January 29, 1996.

V. Conclusion

For the reasons discussed above, the Commission finds that the proposal, as amended, is consistent with the Act, and, in particular, Section 6 of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[11] that the proposed rule change (File No. SR–CBOE–95–36), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–179 Filed 1–5–96; 8:45 am]

BILLING CODE 8010–01–M

[11] 15 U.S.C. 78s(b)(2) (1988).

[12] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–36660; File No. SR–Phlx–95–73]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to New Organizational Structures for Members

December 29, 1995.

On October 4, 1995, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') submitted to the Securities and Exchange Commission (''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 include within the definition of ''member firm'' found in the Phlx By-Laws and rules entities with organizational structures essentially similar to partnerships and corporations and to make the provisions in its By-Laws and rules that pertain to partners of partnership member firms applicable to those persons performing similar functions in non-partnership member firms. On October 11, 1995, the Exchange submitted to the Commission Amendment No. 1 to the proposed rule change,[3] and on November 1, 1995, the Exchange submitted Amendment No. 2 to the proposed rule change.[4]

The proposed rule change and Amendment Nos. 1 and 2 were published for comment in Securities Exchange Act Release No. 36482 (November 14, 1995), 60 FR 58126 (November 24, 1995). No comments were received on the proposal.

Recently, Pennsylvania law and the laws of 46 other jurisdictions have recognized the existence of new legal entities such as limited liability companies (''LLCs''),[5] limited liability partnerships (''LLPs''),[6] and business trusts.[7] As of February 5, 1995, Pennsylvania has authorized the existence of LLCs and LLPs. Presently, the Exchange's By-Laws and Rules recognize two types of member organizations: partnerships under the term ''member firm'' and corporations under the term ''member corporation.''

The proposed rule change would allow the Exchange to recognize these new legal entities as Phlx member firms by amending the definitions of ''member firm'' found in Article I, Section 1–1(c) of the By-Laws and Rule 3 to encompass organizations that are essentially similar to member firms including, but not limited to, LLCs, LLPs, and business trusts.

The Exchange also proposes to amend Article I, Section 1–1(c) and Rule 3 to make provisions in the Phlx By-Laws and rules that pertain to general, special or limited partners in partnership member firms applicable, as appropriate, to those persons who perform essentially similar functions as such partners in non-partnership member firms.[8]

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).[9] Specifically, the Commission believes that the proposed rule change is consistent with Section 6(b)(2) of the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] See Letter from Murray L. Ross, Secretary, Phlx, to Glen Barrentine, Senior Counsel, SEC, dated October 2, 1995. Amendment No. 1 renumbered the rule filing.

[4] See Letter from Murray L. Ross, Secretary, Phlx, to Glen Barrentine, Senior Counsel, SEC, dated October 25, 1995. See *infra* note 8 and text accompanying note 11 for a description of Amendment No. 2.

[5] An LLC combines various characteristics of both corporations and partnerships. For example, an LLC is a non-corporate entity under which neither the owners nor those managing the business are personally liable for the entity's obligations, however, the LLC is treated as a pass-through entity for federal income tax purposes. See Robert R. Keatinge et al., *The Limited Liability Company: A Study of the Emerging Entity*, 47 Bus. Law. 378 (1992).

[6] An LLP differs from a traditional partnership entity in two significant ways. First, in an LLP the liability of a partner or the partnership is no longer joint and several among the partners; instead, a partner generally will be personally liable only for his or her own conduct and that of those under his or her direct supervision. Second, an LLP is treated as a pass-through entity for federal income tax purposes. See Sharon Kanovsky, *LLPs: A New Form of Organization*, 25 Tax Advisor 409 (1994).

[7] The term ''business trust'' is generally used to describe a trust in which the managers are principals and the shareholders are *cestuis que* trust. Its essential attribute is that property is placed in the hands of trustees who manage and deal with it for the use and benefit of beneficiaries. Black's Law Dictionary 180 (5th ed. 1979).

[8] Amendment No. 2 added this provision to the proposed rule change. Amendment No. 2 also withdrew a proposed change to Rule 902 that would have required a member intending to form a non-partnership member firm to submit certain specified documentation to the Exchange, as the proposed change to Rule 3 gives the Exchange the authority to require the submission of such documentation under the current Rule 902. Amendment No. 2 also included additional minimum requirements to be satisfied before LLCs, LLPs, business trusts, or other organizations with characteristics of partnerships or corporations could be approved as Phlx members. See note 11 and accompanying text.

[9] 15 U.S.C. 78f(b).

Act, which requires the rules of an exchange, subject to the provisions of Section 6(c) of the Act,[10] to ensure that any registered broker or dealer or natural person associated with a registered broker or dealer may become a member of the exchange and any person may become associated with a member thereof.

The Phlx currently allows individuals, partnerships, and corporations to become members of the Exchange. The proposed rule change would allow entities with new organizational structures similar to partnerships and corporations to become Exchange member firms. As in the case of an individual, partnership, or corporation applying for membership, the new entity will be subject to all other requirements for membership approval.

The Commission also believes that the proposed rule change reasonably balances the Exchange's interest in having the flexibility to approve entities with new organizational structures for Exchange membership with the regulatory interests in protecting the financial and structural integrity of a member firm. For example, although the proposed rule change permits the Exchange to approve LLCs, LLPs, business trusts, or other organizational structures with characteristics of corporations or partnerships as member firms, the Phlx will review each Exchange member organization application on a case-by-case basis, and prior to approving any such entity for membership, the Exchange must be satisfied that: (1) Such entity would be structured in such a format that would qualify as a broker or dealer registered with the Commission pursuant to the Act; (2) the Phlx would legally have appropriate jurisdiction over such entity; and (3) the permanency of such entity's capital is consistent with that required of other member firms.[11]

Finally, the Commission believes that, consistent with Section 6(d)(1) of the Act, the proposed rule change will enhance the Exchange's ability to enforce compliance by its members and persons associated with its members with the rules of the Exchange by making provisions in the Phlx By-Laws and rules that pertain to general, special or limited partners in partnership member firms applicable, as appropriate, to those persons who perform essentially similar functions as such partners in non-partnership member firms.

[10] 15 U.S.C. 78f(c).

[11] See Amendment No. 2, *supra* note 4.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[12] that the proposed rule change (SR–Phlx–95–73), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–180 Filed 1–5–96; 8:45 am]

BILLING CODE 8010–01–M

[12] 15 U.S.C. 78s(b)(2).

[13] 17 CFR 200.30–3(a)(12).

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration; (Ensco International Incorporated, Common Shares, $.10 Par Value) File No. 1–8097

January 2, 1996.

ENSCO International Incorporated (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security (''Security'') from listing and registration on the American Stock Exchange Inc. (''Amex'').

The reasons alleged in the application for withdrawing the Security from listing and registration include the following: According to the Company, in addition to being listed on the Amex, the Security is listed on the New York Stock Exchange, Inc. (''NYSE''). The Security commenced trading on the NYSE at the opening of business on December 20, 1995 and concurrently therewith such stock will suspend from trading on the Amex. In making the decision to withdraw the Security from listing on the Amex, the Company considered the direct and indirect costs and expenses attendant with maintaining the dual listing of the Security on the NYSE and on the Amex. The Company does not see any particular advantage in the dual trading of the Security and believes that dual listing would fragment the market for the Security.

Any interested person may, on or before January 24, 1996, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–200 Filed 1–5–96; 8:45 am]

BILLING CODE 8010–01–M

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration; (International Tourist Entertainment Corporation, Common Stock, $.001 Par Value) File No. 1–13532

January 2, 1996.

International Tourist Entertainment Corporation (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security (''Security'') from listing and registration on the Boston Stock Exchange, Inc. (''BSE'').

The reasons alleged in the application for withdrawing the Security from listing and registration include the following:

(1) To avoid the duplication or fees from trading on both NASDAQ and the BSE;

(2) It is no longer necessary for blue sky purposes for the company to be listed on the BSE; and

(3) The Company has received no benefit from trading on both exchanges.

The Security will continue to trade on the Nasdaq.

Any interested person may, on or before January 24, 1996, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the BSE and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–201 Filed 1–5–96; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 21664; 811–6582]

Worldwide Short-Term Trust; Application for Deregistration

January 2, 1996.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: Worldwide Short-Term Trust.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATES: The application on Form N–8F was filed on August 14, 1995, and was amended on October 5, 1995, December 4, 1995, and December 21, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 29, 1996, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicant, 122 East 42nd Street, New York, New York 10168.

FOR FURTHER INFORMATION CONTACT: Sarah A. Buescher, Staff Attorney, at (202) 942–0573, or Alison E. Baur, Branch Chief, at (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end, non-diversified management investment company formed as a trust under New York law. Applicant is a ''master fund'' in a ''master/feeder fund'' complex and is composed of three funds: Short-Term World Income Fund, Class A, B and C. Class A and Class B are a series of Van Eck Trust. Class C is a series of Van Eck Funds.

2. SEC records indicate that applicant registered under the Act on March 3, 1992 by filing a notification of registration on Form N–8A pursuant to section 8(a) of the Act. Also on that date, applicant filed a registration statement on Form N–1A pursuant to section 8(b) of the Act. No registration was made under the Securities Act of 1933 (the ''Securities Act'') because applicant's beneficial interests were issued solely in private placement transactions that did not involve any ''public offering'' within the meaning of section 4(2) thereof. All of applicant's investors were ''accredited investors'' within the meaning of Regulation D under the Securities Act.

3. At a meeting held on November 23, 1993, applicant's board of trustees approved a plan to liquidate Class A and Class B, and merge Class C into World Income Fund, another series of Van Eck Funds. Applicant's proxy materials indicate that applicant liquidated because sales of applicant's shares dropped dramatically and because a high level of redemptions over the previous year meant that applicant's expense ratio was higher than anticipated.

4. Both applicant and World Income Fund are advised by Van Eck Associates Corporation (''Adviser''). Consequently, applicant relied on the exemption provided by rule 17a–8 under the Act to effect the merger of Class C into the World Income Fund.[1] In accordance with rule 17a–8, the trustees determined that the merger was in the best interests of the shareholders of Class C and the World Income Fund, and that the interests of the World Income Fund's shareholders would not be diluted as a result of the merger.

5. Proxy materials were filed with the SEC and mailed to shareholders for a shareholders meeting held on December 28, 1993. Applicant's shareholders approved the liquidation plan at the meeting.

6. On December 31, 1993, Class A and Class B liquidated, and securityholders received the net asset value of their interests. Class C merger into World Income Fund on December 30, 1993. Class C assets were exchanged for shares of the World Income Fund and those shares were distributed *pro rata* to Class C shareholders.

7. The Adviser paid applicant's unamortized organization expenses and the expenses relating to applicant's liquidation. No brokerage commissions were paid in connection with the liquidation.

8. Applicant has no securityholders, assets, or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant is not presently engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

9. Applicant will file a Certificate of Dissolution and other appropriate documentation in New York, as required by New York law.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–181 Filed 1–5–96; 8:45 am]

BILLING CODE 8010–01–M

---

[1] Rule 17a–8 provides relief from the affiliated transaction prohibition of section 17(a) of the Act for a merger of investment companies that may be affiliated persons of each other solely by reason of having a common investment adviser, common directors, and/or common officers.

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ending 12/29/95

The following agreements were filed with the Department of Transportation under the provisions of 49 U.S.C 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–95–974
Date filed: December 27, 1995
Parties: Members of the International Air Transport Association
Subject:
TC23 Reso/P 0718 dated November 24, 1995
Europe-Japan/Korea Resos r–1–R–43
Intended effective date: April 1, 1996

Docket Number: OST–95–975
Date filed: December 27, 1995
Parties: Members of the International Air Transport Association
Subject:
TC23 Reso/P 0727 dated December 5, 1995
Europe-South West Pacific Resos r–1–R–29
Intended effective date: April 1, 1996

Docket Number: OST–95–976
Date filed: December 27, 1995
Parties: Members of the International Air Transport Association

Subject:
TC2 Reso/P 1842 dated November 17, 1995 r–1–16
TC2 Reso/P 1843 dated November 17, 1995 r–17–37
TC2 Reso/P 1844 dated November 17, 1995 r–38–57
TC2 Reso/P 1845 dated November 17, 1995 r–58–81
TC2 Reso/P 1846 dated November 17, 1995 r–82–97
TC2 Reso/P 1847 dated November 17, 1995 r–98–99
TC2 Reso/P 1848 dated November 17, 1995 r–100
Europe-Africa Resolutions
Intended effective date: April 1, 1996

Paulette V. Twine,

Chief, Documentary Services Division.

[FR Doc. 96–215 Filed 1–5–96; 8:45 am]

BILLING CODE 4910–62–P

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending December 29, 1995

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et seq.). The due date for Answers, Conforming Applications, or Motions to modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–95–969
Date filed: December 26, 1995
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: January 23, 1996
Description: Application of Northwest Airlines, Inc., pursuant to 49 U.S.C. Section 41102 and Subpart Q of the Regulations, applies for a certificate of public convenience and necessity authorizing Northwest to provide scheduled foreign air transportation of persons, property and mail between Detroit, Michigan and Beijing, China.

Docket Number: OST–95–972
Date filed: December 26, 1995
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: January 23, 1996
Description: Application of Japan Airlines, Company, Ltd., pursuant to 49 U.S.C. Section 41304(a), applies to amend its foreign air carrier permit to authorize JAL to engage in, in addition to its existing permit authority, scheduled foreign air transportation of persons, property, and mail between Sendai, Japan, and Honolulu, Hawaii.

Docket Number: OST–95–973
Date filed: December 26, 1995
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: January 23, 1996
Description: Application of Japan Airlines Company, Ltd., pursuant to 49 U.S.C. Section 41304(a), applies to amend its foreign air carrier permit to authorize JAL to engage in, in addition to its existing permit authority, scheduled foreign air transportation of persons, property, and mail between Tokyo, Japan and Kailua-Kona, Hawaii.

Paulette V. Twine,

Chief, Documentary Services Division.

[FR Doc. 96–216 Filed 1–5–96; 8:45 am]

BILLING CODE 4910–62–P

Coast Guard

[CGD08–96–029]

Lower Mississippi River Waterway Safety Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The Lower Mississippi River Waterway Safety Advisory Committee will meet to discuss various navigation safety matters affecting the Lower Mississippi River area. The meeting will be open to the public.

DATES: The meeting will be held from 9 a.m. to approximately 11 a.m. on Tuesday, April 16, 1996.

ADDRESSES: The meeting will be held in the 11th floor conference room of the Hale Boggs Federal Building, 501 Magazine Street, New Orleans, Louisiana.

FOR FURTHER INFORMATION CONTACT: Mr. Monty Ledet, USCG, Recording Secretary, Lower Mississippi River Waterway Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (oan), Room 1211, Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA 70130–3396, telephone (504) 589–4686.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. 2 § 1 et seq. The meeting is open to the public. Members of the public may present written or oral statements at the meeting. The agenda for the meeting consists of the following items:

(1) Presentation of the minutes from the December 11, 1995 full Committee meeting.
(2) Subcommittee Reports.
(3) Industrial Lock Replacement.
(4) Underkeel Clearance.

Dated: December 20, 1995.

R. C. North,

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

[FR Doc. 96–206 Filed 1–5–96; 8:45 am]

BILLING CODE 4910–14–M

Federal Aviation Administration

Aviation Rulemaking Advisory Committee Meeting on Aircraft Certification Procedures Issues

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration's Aviation Rulemaking Advisory Committee to discuss aircraft certification procedures issues.

DATES: The meeting will be held on January 18, 1996, at 9:00 a.m. Arrange for oral presentations by January 12, 1996.

ADDRESSES: The meeting will be held at the General Aviation Manufacturers Association, Suite 801, 1400 K Street NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Jeanne Trapani, Office of Rulemaking (ARM–208), 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267–7624.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the Aviation Rulemaking advisory committee to be held on January 18, 1996, at the General Aviation Manufacturers Association, Suite 801, 1400 K Street NW., Washington, DC 20005. The agenda for the meeting will include:

- Opening Remarks
- Working Group Reports
  - Production Certification
  - Parts
  - Delegation System
  - ELT
  - ICPTF
- New Business

Attendance is open to the interested public, but will be limited to the space available. The public must make arrangements by January 12, 1996, to present oral statements at the meeting. The public may present written statements to the committee at any time by providing 25 copies of the Assistant Executive Director for Aircraft Certification Procedures or by bringing the copies to him at the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting.

Issued in Washington, DC, on January 2, 1996.

Elizabeth Yoest,

Acting Assistant Executive Director, Aviation Rulemaking Advisory Committee for Aircraft Certification Procedures.

[FR Doc. 96–225 Filed 1–5–96; 8:45 am]

BILLING CODE 4910–13–M

Aviation Rulemaking Advisory Committee Meeting on Noise Certification Issues

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Aviation Rulemaking Advisory Committee to discuss noise certification issues.

DATES: The meeting will be held on January 24, 1996, at 9 a.m. Arrange for oral presentations by January 17, 1996.

ADDRESSES: The meeting will be held at the General Aviation Manufacturers Association, suite 801, 1400 K Street NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Carolina Forrester, Federal Aviation Administration, Office of Rulemaking (ARM–206), 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267–9690; fax (202) 267–5075.

SUPPLEMENTARY INFORMATION: Pursuant to § 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the Aviation Rulemaking Advisory Committee to be held on January 24, 1996, at the General Aviation Manufacturers Association, Suite 801, 1400 K Street NW., Washington, DC 20005. The agenda will include:

- Opening Remarks
- Committee administration
- Status report from the FAR/JAR Harmonization Working Group for Helicopters
- Status report from the FAR/JAR Harmonization Working Group for Propeller-Driven Small Airplanes
- Status Report from the FAR/JAR Harmonization Working Group for Subsonic Transport Category Large Airplanes and Subsonic Turbojet Powered Airplanes
- A discussion of future meeting dates, activities, and plans.
- Adjourn

Attendance is open to the interested public, but will be limited to the space available. The public must make arrangements by January 17, 1996, to present oral statements at the meeting. The public may present written statements to the committee at any time by providing 25 copies to the Executive Director, or by bringing the copies to him at the meeting. In addition, sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC, on January 2, 1996.

Paul R. Dykeman,

Assistant Executive Director for Noise Certification Issues, Aviation Rulemaking Advisory Committee.

[FR Doc. 96–226 Filed 1–5–96; 8:45 am]

BILLING CODE 4910–03–M

Aviation Security Advisory Committee; Meeting

AGENCY: Federal Aviation Administration, DOT.

SUMMARY: Notice is hereby given of a scheduled meeting of the Aviation Security Advisory Subcommittee on Policy, Procedures, and Public Awareness.

DATE: The meeting will be held January 23, 1996, from 10 a.m. to 12 p.m.

ADDRESS: The meeting will be held in Room 8C on the eighth floor, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone 202–267–7451.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 11), notice is hereby given of a meeting of the Aviation Security Advisory Subcommittee to be held January 23, 1996, in Room 8C on the eighth floor, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC. The agenda for the meeting will include the Final Rule on Unescorted Access Privilege. The FAA is currently evaluating whether further changes may be warranted and the possible impact of a more extensive criminal history check requirement.

Attendance at the January 23, 1996, meeting is open to the public but is limited to space available. Members of the public may address the committee only with the written permission of the chair, which should be arranged in advance. The chair may entertain public comment if, in its judgment, doing so will not disrupt the orderly progress of the meeting and will not be unfair to any other person. Members of the public are welcome to present written material to the committee at any time. Persons wishing to present statement or obtain information should contact the Office of the Associate Administrator for Civil Aviation Security, 800 Independence Avenue SW., Washington, DC 20591. Telephone 202–267–7451.

Issued in Washington, DC on January 2, 1996.

Karl Shrum,

Manager, Civil Aviation Security Division.

[FR Doc. 96–227 Filed 1–5–96; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Departmental Offices; Debt Management Advisory Committee; Meeting

Notice is hereby given, pursuant to 5 U.S.C. App. § 10(a)(2), that a meeting will be held at the U.S. Treasury Department, 15th and Pennsylvania Avenue, NW., Washington, DC., on January 30 and 31, 1996, of the following debt management advisory committee: Public Securities Association, Treasury Borrowing Advisory Committee.

The agenda for the meeting provides for a technical background briefing by Treasury staff on January 30, followed by a charge by the Secretary of the Treasury or his designate that the committee discuss particular issues, and a working session. On January 31, the committee will present a written report of its recommendations.

The background briefing by Treasury staff will be held at 11:30 a.m. Eastern time on January 30 and will be open to the public. The remaining sessions on January 30 and the committee's reporting session on January 31 will be closed to the public, pursuant to 5 U.S.C. App. § 10(d).

This notice shall constitute my determination, pursuant to the authority placed in heads of departments by 5

U.S.C. App. § 10(d) and vested in me by Treasury Department Order No. 101–05, that the closed portions of the meeting are concerned with information that is exempt from disclosure under 5 U.S.C. § 552b(c)(9)(A). The public interest requires that such meetings be closed to the public because the Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decision on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community. When so utilized, such a committee is recognized to be an advisory committee under 5 U.S.C. App. § 3.

Although the Treasury's final announcement of financing plans may not reflect the recommendations provided in reports of the advisory committee, premature disclosure of the committee's deliberations and reports would be likely to lead to significant financial speculation in the securities market. Thus, these meetings fall within the exemption covered by 5 U.S.C. § 552b(c)(9)(A).

The Office of the Under Secretary for Domestic Finance is responsible for maintaining records of debt management advisory committee meetings and for providing annual reports setting forth a summary of committee activities and such other matters as may be informative to the public consistent with the policy of 5 U.S.C. § 552b.

Dated: December 26, 1995.

John D. Hawke, Jr.,

Under Secretary, Domestic Finance.

[FR Doc. 96–189 Filed 1–5–96; 8:45 am]

BILLING CODE 4810–25–M

Customs Service

Paperless Notification Concerning the Recordation of Intellectual Property Rights Information

AGENCY: Customs Service, Treasury.

ACTION: General notice.

SUMMARY: This notice advises the public that the Intellectual Property Rights (IPR) Branch of Customs will no longer notify Customs officers and the public of trademark and copyright recordations through the issuance of paper circulars or directives, but rather that all such future notifications will be accomplished by means of the IPR module developed for the Automated Commercial System (ACS). Customs will furnish a print screen of the first page of IPR module text and a video image to interested members of the public upon request.

EFFECTIVE DATE: January 1, 1996.

FOR FURTHER INFORMATION CONTACT: John F. Atwood, Chief, Intellectual Property Rights Branch, Office of Regulations and Rulings, (202) 482–6960.

SUPPLEMENTARY INFORMATION:

Background

Prior to creating the Intellectual Property Rights (IPR) Task Force and IPR Branch, the principal vehicle for notifying Customs officers and the public of trademark and copyright recordations was through the issuance of paper ''circulars'' or ''directives''. During 1989–1990, an IPR module was developed for the Automated Commercial System (ACS) and the basic information and images on all outstanding recordations transferred to that program, along with the addition of all new recordations. Currently, that database is approaching 20,000 and more than 1,500 new recordations are added each year.

A comparative analysis of the existing paper recordation notification system with the paperless ACS/IPR module indicates that substantial monetary savings and increased efficiency will result by eliminating the paper system. Because of the ongoing conversion to Local Area Networks (LANs), Customs officers now have the ability to call up both the text and images (in the case of word trademarks, an image may not be entered into the system). Accordingly, as of January 1, 1996, the IPR Branch in the Office of Regulations & Rulings will no longer issue paper circulars and directives concerning trademark and copyright recordations; the ACS/IPR module will become the sole tool for basic consultation on those matters.

As to the public availability of recordations, use of the Customs Electronic Bulletin Board (CEBB)(''Help'' number (703) 440–6236) is encouraged. Text on the CEBB identifies the recorded trademark or copyright, its owner, a contact person, and whether the trademark or copyright receives so-called ''gray market'' import restriction. On a monthly basis, beginning with the July 17, 1991, edition, the *Customs Bulletin* has published a brief reference of all trademark and copyright recordations (including all those recorded prior to July 17, 1991). Upon request, Customs officers will furnish a print screen of the first page of IPR module text for a trademark or copyright with any references to licensees in recordations prior to January 1, 1996, deleted. Beginning on January 1, 1996, recordation texts will not include licensee information on the first page (not all recordations show licensees).

Since video images are not currently available through the CEBB, Customs officers will provide a relevant image upon request from the public.

In addition to financial savings, by narrowing the administration of trademark and copyright recordations to the one automated system, this will permit the IPR Branch to concentrate on improving and refining the ACS/IPR module. Substantive questions about disclosure and IPR recordations should be directed to the IPR Branch at (202) 482–6960.

Dated: January 2, 1996.

Michael H. Lane,

Acting Commissioner of Customs.

[FR Doc. 96–204 Filed 1–5–96; 8:45 am]

BILLING CODE 4820–02–P

Sunshine Act Meetings

Federal Register
Vol. 61, No. 5
Monday, January 8, 1996

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).

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Regular Meeting

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), that the January 11 and February 8, 1996 regular meetings of the Farm Credit Administration Board (Board) will not be held and that a special meeting of the Board is scheduled for Tuesday, February 13, 1996 at 10:00 a.m. An agenda for this meeting will be published at a later date.

FOR FURTHER INFORMATION CONTACT: Floyd Fithian, Secretary to the Farm Credit Administration Board, (703) 883–4025, TDD (703) 883–4444.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

Dated: January 3, 1996.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 96–289 Filed 1–4–96; 2:13 pm]

BILLING CODE 6705–01–P

UNITED STATES ENRICHMENT CORPORATION BOARD OF DIRECTORS

TIME AND DATE: 9:15 a.m., Tuesday, January 9, 1996.

PLACE: USEC Corporate Headquarters, 6903 Rockledge Drive, Bethesda, Maryland 20817.

STATUS: Portions of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

- Review of commercial and financial issues of the Corporation

CONTACT PERSON FOR MORE INFORMATION: Barbara Arnold, 301–564–3354.

Dated: January 4, 1996.

William H. Timbers, Jr.

President and Chief Executive Officer

[FR Doc. 96–294 Filed 1–4–96; 2:14 pm]

BILLING CODE 8720–01–M

Corrections

Federal Register
Vol. 61, No. 5
Monday, January 8, 1996

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-36566; File No. SR-Amex-95-46]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange, Inc. Relating to the Exchange's Arbitration Rules

Correction

In notice document 95–30492 beginning on page 64191 in the issue of Thursday, December 14, 1995, make the following correction:

On page 64192, in the first column, the signature was inadvertently omitted before the FR Doc. line. It should read as follows:

Margaret H. McFarland,
Deputy Secretary.

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-36569; File No. SR-CSE-95-10]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by Cincinnati Stock Exchange, Inc., Relating to the Definitions of Public and Professional Agency Orders

Correction

In notice document 95–30530 beginning on page 64465 in the issue of Friday, December 15, 1995, the Release number should read as set forth above.

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-36601; File No. SR-PHLX-95-39]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to Increasing the Maximum Size of Options Orders Eligible for Automatic Execution

Correction

In notice document 95–31219 beginning on page 66817 in the issue of Tuesday, December 26, 1995, make the following correction:

On page 66819, in the second column, the signature was inadvertently omitted before the FR Doc. line. It should read as follows:

Margaret H. McFarland,
Deputy Secretary.

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Parts 506, 510, 512, 516, 543, 544, 545, 550, 552, 556, 563, 563b, 563c, 563d, 565, 566, 567, 571, 574, 575, 583, 584

[No. 95-200]

Technical Amendments; Loans to One Borrower

Correction

In rule document 95–30541 beginning on page 66714 in the issue of Tuesday, December 26, 1995, in the first column, the **EFFECTIVE DATE** should read ''December 26, 1995''.

BILLING CODE 1505–01–D

Monday
January 8, 1996

Part II

Securities and Exchange Commission

17 CFR Parts 210, 228, et al.

Securities: Disclosure of Accounting Policies for Derivative Financial Instruments, etc.; Proposed Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 210, 228, 229, 239, 240, and 249

[Release Nos. 33–7250; 34–36643; IC–21625; File No. S7–35–95].

RIN 3235–AG42

Proposed Amendments to Require Disclosure of Accounting Policies for Derivative Financial Instruments and Derivative Commodity Instruments and Disclosure of Qualitative and Quantitative Information About Market Risk Inherent in Derivative Financial Instruments, Other Financial Instruments, and Derivative Commodity Instruments

AGENCY: Securities and Exchange Commission.

ACTION: Proposed amendments.

SUMMARY: The Securities and Exchange Commission (''Commission'' or ''SEC'') today is soliciting comment on proposed amendments to Regulation S–X, Regulation S–K, and various forms, including Form 20–F. The proposed amendments are intended to clarify and expand existing requirements for financial statement footnote disclosures about registrants' accounting policies for derivative financial instruments, as defined, and derivative commodity instruments, as defined. In addition, the proposed amendments require disclosure outside the financial statements of qualitative and quantitative information about market risk inherent in derivative financial instruments, other financial instruments, as defined, and derivative commodity instruments. Also, the release reminds registrants that when they provide disclosure about financial instruments, commodity positions, firm commitments, and other anticipated transactions (''reported items''), such disclosure must include disclosures about derivatives that affect directly or indirectly such reported items, to the extent the effects of such information are material and necessary to prevent the disclosure about the reported item from being misleading. In sum, these proposals are designed to make information about derivative financial instruments, other financial instruments, and derivative commodity instruments more useful to investors seeking to assess the market risk inherent in these instruments.

DATES: Comments on the proposed amendments should be received on or before May 7, 1996.

ADDRESSES: Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Comment letters should refer to File No. S7–35–95. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Cathy J. Cole, Thomas J. Linsmeier, Russell B. Mallett, III, or Stephen M. Swad, at (202) 942–4400, Office of the Chief Accountant, Securities and Exchange Commission, 450 Fifth Street, N.W., Mail Stop 11–3, Washington, D.C. 20549, or Kurt R. Hohl, at (202) 942–2960, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, N.W., Mail Stop 3–13, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission is proposing to amend Rule 4–08 of Regulation S–X [1] and to add new Item 305 to Regulation S–K.[2] Additionally, the Commission is proposing amendments to Forms S–1, S–2, S–4, S–11, and F–4 [3] under the Securities Act of 1933,[4] and Rule 14a–3,[5] Schedule 14A,[6] and Forms 10, 20–F, 10–Q, and 10–K [7] under the Securities Exchange Act of 1934.[8]

I. Executive Summary

During the last several years, there has been substantial growth [9] in the use of derivative financial instruments, other financial instruments, and derivative commodity instruments.[10] The Commission recognizes that these instruments can be effective tools for managing registrants' exposures to market risk.[11] During 1994, however, some registrants experienced significant, and sometimes unexpected, losses in market risk sensitive instruments due to, among other things, changes in interest rates, foreign currency exchange rates, and commodity prices. In light of these losses and the substantial growth in the use of market risk sensitive instruments, public disclosure about these instruments has emerged as an important issue in financial markets.

During 1994 and 1995, to understand better this emerging issue and to assess current disclosure practice, the SEC staff reviewed annual reports filed with the Commission by approximately 500 registrants. The primary purposes of these reviews were to (i) assess the quality of disclosures pertaining to market risk sensitive instruments and (ii) determine what, if any, additional information is needed to improve disclosures about these instruments. The SEC staff observed that while disclosures reviewed in 1995 were more informative than those reviewed in 1994, in part, because of improved guidance by the FASB,[12] three

---

[1] 17 CFR 210.4–08. Item 310 of Regulation S–B, CFR 228.310, also would be amended to incorporate the changes to Item 4–08 of Regulation S–X.

[2] 17 CFR Part 229.

[3] 17 CFR 239.11, 12, 25, 18, and 34.

[4] 15 U.S.C. 77a *et seq.*

[5] 17 CFR 240.14a–3.

[6] 17 CFR 240.14a–101.

[7] 17 CFR 249.210, 220f, 308a, and 310.

[8] 15 U.S.C. 78a *et seq.*

[9] The worldwide notional/contract amounts for derivative financial instruments and derivative commodity instruments increased from $7.1 trillion in 1989 to $62.1 trillion in 1994. These notional amounts, while one way to measure derivative activities, do not represent a precise measure of the risk associated with these instruments. In many instances, the amount at risk is much smaller than the notional amount. *See Financial Derivatives: Actions Needed to Protect the Financial System,* United States General Accounting Office Report to Congressional Requesters (May 1994), and *Public Disclosure of the Trading and Derivatives Activities of Banks and Securities Firms,* Basle Committee on Banking Supervision (''Basle Committee'') and the Technical Committee of the International Organization of Securities Commissions (''IOSCO'') (November 1995).

[10] *See* section IV C, *infra,* for complete definitions of the terms derivative financial instruments, other financial instruments, and derivative commodity instruments. In brief, for purposes of this release: (1) derivative financial instruments include futures, forwards, swaps, options, and other financial instruments with similar characteristics, (2) other financial instruments include, for example, investments, loans, structured notes, mortgage-backed securities, indexed debt instruments, interest-only and principal-only obligations, deposits, and other debt obligations, and (3) derivative commodity instruments include, to the extent such instruments are not derivative financial instruments, commodity futures, commodity forwards, commodity swaps, commodity options, and other commodity instruments with similar characteristics that are reasonably possible to be settled in cash or with another financial instrument. In addition, for purposes of this release, the terms (1) ''derivatives'' refer to derivative financial instruments and derivative commodity instruments, together, and (2) ''market risk sensitive instruments'' refer to derivative financial instruments, other financial instruments, and derivative commodity instruments, collectively.

[11] Market risk is the risk of loss arising from adverse changes in market rates and prices, such as interest rates, foreign currency exchange rates, commodity prices, and similar market rate or price changes (*e.g.,* equity prices). *See* Group of Thirty, *''Derivatives: Practices and Principles''* (July 1993), and Financial Accounting Standards Board (''FASB''), *Statement of Financial Accounting Standards No. 105, ''Disclosure of Information about Financial Instruments with Off-Balance-Sheet Risk and Financial Instruments with Concentrations of Credit Risk''* (''FAS 105'') (March 1990), for similar definitions of market risk.

[12] In October 1994, the FASB issued *Statement of Financial Accounting Standards No. 119, ''Disclosures about Derivative Financial Instruments and Fair Value of Financial Instruments''* (''FAS 119'') (October 1994), which requires disclosures about derivative financial instruments. FAS 119 is effective for fiscal years ending after December 15, 1994, except for entities

significant disclosure issues remain. Today, to address those disclosure issues:[13]

1. The Commission proposes amendments to Regulation S–X requiring enhanced descriptions in the footnotes to the financial statements of accounting policies for derivative financial instruments and derivative commodity instruments.[14] These disclosures would be required unless the registrant's derivative activities are not material. For this proposal, the materiality of derivatives activities would be measured by the fair values[15] of derivative financial instruments and derivative commodity instruments at the end of each reporting period and the fair value of those instruments during each reporting period.

2. The Commission proposes amendments creating a new Item 305 of Regulation S–K requiring disclosure outside the financial statements[16] of qualitative and quantitative information about derivative financial instruments, other financial instruments, and derivative commodity instruments. These disclosures would be required if any of the following items are material: (i) the fair values of market risk sensitive instruments outstanding at the end of the current reporting period or (ii) the potential loss in future earnings, fair values, or cash flows of market risk sensitive instruments from reasonably possible market movements.[17]

a. In complying with the proposed amendments requiring disclosure of quantitative information about market risk, registrants would be permitted to select any one of the following three disclosure alternatives:

i. Tabular presentation of expected future cash flow amounts and related contract terms categorized by expected maturity dates;

ii. Sensitivity analysis expressing the possible loss in earnings, fair values, or cash flows of market risk sensitive instruments from selected hypothetical changes in market rates and prices; or

iii. Value at risk disclosures expressing the potential loss in earnings, fair values, or cash flows of market risk sensitive instruments from market movements over a selected period of time with a selected likelihood of occurrence.

b. The proposed qualitative information about market risk would include a narrative discussion of (i) a registrant's primary market risk exposures[18] and (ii) how the registrant manages those exposures (*e.g.,* a description of the objectives, general strategies, and instruments, if any, used to manage those exposures).

3. The Commission is reminding registrants that when they provide disclosure about financial instruments, commodity positions, firm commitments, and other anticipated transactions[19] (''reported items''), such disclosure must include information about derivatives that affect directly or indirectly such reported items, to the extent the effects of such information are material and necessary to prevent the disclosure about the reported item from being misleading. For example, when information is required to be disclosed in the footnotes to the financial statements about interest rates and repricing characteristics of debt obligations, registrants should include, when material, disclosure of the effects of derivatives. Similarly, summary information and disclosures in Management's Discussion and Analysis (''MD&A'') about the cost of debt obligations should include, when material, disclosure of the effects of derivatives.

Congress recently adopted the Private Securities Litigation Reform Act of 1995 that, among other things, amends the Securities Act and Securities Exchange Act to include a safe harbor for forward looking information. It is the Commission's intention that forward looking disclosures made pursuant to proposed Item 305 of Regulation S–K and Item 9A of Form 20–F be subject to an appropriate safe harbor. The Commission's staff is continuing to consider how best to craft an appropriate safe harbor in light of this recent legislation, and the Commission intends to issue a release shortly that would propose that the disclosures to be required by new Items 305 and 9A be made subject to safe harbor provisions.

The proposed amendments pertaining to qualitative and quantitative information about market risk would not apply to registered investment companies[20] and small business issuers.[21] However, to the extent market risk represents a material known trend, event, or uncertainty, small business issuers, like other registrants, would be required to discuss the impact of market risk on past and future financial condition and results of operations, pursuant to Commission rules relating to MD&A.[22]

The proposed amendments are designed to make disclosures about market risk sensitive instruments more useful to investors. They represent one step by the Commission to improve registrants' disclosures about market risk sensitive instruments. The Commission recognizes the evolving nature of market risk sensitive instruments and intends to continue considering how best to address disclosure issues relating to these instruments. In this regard, if the proposals in this release are adopted, the Commission would anticipate reconsidering the effectiveness of those rules, as well as the need for additional proposals, after a period of five years.

II. Initiatives Regarding Disclosures About Derivatives

Certain private sector entities have highlighted problems associated with

---

with less than $150 million in total assets. For those entities, FAS 119 is effective for financial statements issued for fiscal years ending after December 15, 1995.

[13] The FASB currently is working on a project to improve accounting recognition and measurement of derivatives. This release does not address accounting recognition and measurement of derivatives, but focuses solely on disclosure issues related to derivatives and other financial instruments.

[14] These disclosure requirements do not relate to, for example, other financial instruments. Accounting policy disclosure requirements for these other instruments are prescribed by existing generally accepted accounting principles and Commission guidance (*see, e.g., Accounting Principles Board Opinion No. 22, ''Disclosure of Accounting Policies''* (''APB 22'') (April 1972).

[15] For purposes of this release, the term ''fair value'' has the same meaning as defined by generally accepted accounting principles (*see, e.g.,* FASB, *Statement of Financial Accounting Standards No. 107, ''Disclosures about Fair Value of Financial Instruments''* (''FAS 107'') (December 1991), paragraph 5).

[16] *See* section III B3b, *infra*, for a discussion about where, outside the financial statements, these disclosures would appear.

[17] The proposed amendments regarding disclosure of qualitative and quantitative information about market risk do not relate solely to derivatives, but also to investments in other financial instruments. These disclosures would be required for registrants that have material investments in other financial instruments, even though they have no investments in derivatives.

[18] *See* note 63, *infra*, for a definition specifying how the term ''primary market risk exposures'' is used in this release.

[19] For purposes of this release, ''anticipated transactions'' means transactions (other than transactions involving existing assets or liabilities or transactions necessitated by existing firm commitments) an enterprise expects, but is not obligated, to carry out in the normal course of business (*see, e.g.,* ¶ 9 of *Statement of Financial Accounting Standards No. 80, ''Accounting for Futures Contracts''* (''FAS 80'') (August 1984)).

[20] The Commission currently is considering comments and suggestions on how to improve the descriptions of risk provided to investors by mutual funds and other investment companies. *See ''Improving Descriptions of Risk by Mutual Funds and Other Investment Companies,''* Securities Act Release No. 7153, 60 FR 17172 (April 4, 1995).

[21] The proposed amendments relating to accounting policies disclosures, however, would apply to both registered investment companies and small business issuers.

[22] *See, e.g.,* Item 303 of Regulation S–B, 17 CFR 228.303, and Item 303 of Regulation S–K, 17 CFR 229.303.

disclosures about market risk sensitive instruments, as identified by users of financial reports. For example, the Association for Investment Management and Research (''AIMR''), an organization of financial analysts, noted that users ''are confounded by the . . . complexity of financial instruments.'' [23] In addition, after considerable investigation into the needs of investors and creditors, the American Institute of Certified Public Accountant's (''AICPA'') Special Committee on Financial Reporting stated: [24]

Users are confused. They complain that business reporting is not answering important questions, such as: . . . What [innovative financial] instruments has the company entered into, and what are their terms? How has the company accounted for those instruments, and how has that accounting affected the financial statements? What risks has the company transferred or taken on? [page 76]

Other organizations recently have made recommendations on how to improve such disclosures about market risk sensitive instruments. These organizations include regulators, such as the Group of 10 Central Bankers,[25] the Federal Reserve Bank of New York,[26] the Basle Committee and the Technical Committee of IOSCO,[27] and private sector bodies, such as the Group of Thirty [28] and a task force of the Financial Executives Institute (''FEI'').[29]

In general, these organizations have stressed the need to make more understandable the risks inherent in market risk sensitive instruments. In particular, they have called for additional quantitative and qualitative disclosures about market risk. For example, the Federal Reserve Bank of New York recommended a new financial statement providing quantitative information about the overall market risk of an entity.[30] In addition, the FEI task force recommended that companies ''disclose some type of information which conveys overall exposure to market risk.'' [31] In this regard, the FEI task force suggests two distinct approaches. One approach is to provide a high-level summary of relevant statistics about outstanding activity at period end. The second approach is to communicate the potential loss which could occur under specified conditions using either a value at risk or another comprehensive model to measure market risk.[32]

In October 1994, the FASB, responding in part to calls for improved disclosure, issued *Statement of Financial Accounting Standards No. 119, ''Disclosures about Derivative Financial Instruments and Fair Value of Financial Instruments''* (''FAS 119'') (October 1994).[33] FAS 119 prescribes, among other things, disclosures in the financial statements about the policies used to account for derivative financial instruments and a discussion of the nature, terms, and cash requirements of derivative financial instruments. FAS 119 also encourages, but does not require, disclosure of quantitative information about an entity's overall market risk.[34]

During 1994, in response, in part, to the concerns of investors, regulators, and private sector entities, the SEC staff reviewed the annual reports of approximately 500 registrants. In addition, during 1995, more recent annual reports were reviewed by the SEC staff to assess the effect of FAS 119 on disclosures about market risk sensitive instruments. As a result of these reviews, the SEC staff observed that FAS 119 had a positive effect on the quality of disclosures about derivative financial instruments. However, the SEC staff also concluded there was a need to improve disclosures about derivative financial instruments, other financial instruments, and derivative commodity instruments. In particular, the SEC staff identified the following three primary disclosure issues.

1. Footnote disclosures of accounting policies for derivatives often are too general to convey adequately the diversity in accounting that exists for derivatives. Thus, it often is difficult to determine the impact of derivatives on registrants' statements of financial position, cash flows, and results of operations;

2. Disclosures often focus on derivatives and other financial instruments in isolation. Thus, it may be difficult to assess whether these instruments increase or decrease the net market risk exposure of a registrant; and

3. Disclosure about financial instruments, commodity positions, firm commitments, and other anticipated transactions (''reported items'') in the footnotes to the financial statements, MD&A, schedules, and selected financial data may not reflect adequately the effect of derivatives on such reported items. Thus, without disclosure about the effects of derivatives, information about the reported items may be incomplete or perhaps misleading.

The proposals in this release are designed to address these issues. They reflect a significant amount of learning by the Commission and its staff over the past year and a half about (i) derivatives and related risk management activities, and (ii) alternative disclosure approaches to make those activities more understandable to investors. In addition, during this period, the Commission and its staff developed the following guiding principles, which provided the foundation for the proposed amendments described in this release:

- Disclosures should allow investors to understand better how derivatives affect a registrant's statements of financial position, cash flows, and results of operations;
- Disclosures should provide information about market risk;
- Disclosures should allow the investor to understand how market risk sensitive instruments are used in the context of the registrant's business;
- Disclosures about market risk should not focus on derivatives in isolation, but rather should reflect the risk of loss inherent in all market risk sensitive instruments;
- Disclosure requirements about market risk should be flexible enough to accommodate different types of registrants, different degrees of market risk exposure, and alternative ways of measuring market risk;
- Disclosures about market risk should highlight, where appropriate, special risks relating to leverage, option, or prepayment features; and
- New disclosure requirements should build on existing disclosure

[23] *See* AIMR, *Financial Reporting in the 1990s and Beyond,* page 30 (1993).

[24] *See* AICPA Special Committee on Financial Reporting, *Improving Business Reporting—A Customer Focus: Meeting the Information Needs of Investors and Creditors* (1994).

[25] *See* Bank for International Settlements, *A Discussion Paper on Public Disclosure of Market and Credit Risks by Financial Intermediaries*, prepared by working group of the Euro-currency Standing Committee of the Central Banks of the Group of Ten Countries (September 1994).

[26] *See* Federal Reserve Bank of New York, *Public Disclosure of Risks Related to Market Activity: A Discussion Paper* (November 1994).

[27] *See* Basle Committee and the Technical Committee of IOSCO, *Framework for Supervisory Information about the Derivatives Activities of Banks and Securities Firms* (May 1995). *See also* Basle Committee and the Technical Committee of IOSCO, *Public Disclosure of the Trading and Derivatives Activities of Banks and Securities Firms* (November 1995).

[28] *See* Group of Thirty, *Derivatives: Practices and Principles* (July 1993).

[29] *See* FEI, *Derivative Financial Instruments Accounting and Disclosure Issues,* (''FEI Report'') prepared by FEI CCF/CCR Derivatives Disclosure Task Force (August 1994).

[30] *See* note 26, supra.

[31] *See* Attachment A, page 1 of FEI Report.

[32] *See* Attachment B, pages 5 and 6 of FEI Report.

[33] Similar standards were recently adopted or proposed by the International Accounting Standards Committee, the Canadian Institute of Chartered Accountants, and the Australian Accounting Standards Board. *See International Accounting Standards No. 32, ''Financial Instruments: Disclosure and Presentation''* (''IAS 32'') (March 1995), Section 3860 of the *Handbook of the Canadian Institute of Chartered Accountants,* and the Australian Accounting Standards Board's exposure draft entitled, *''Presentation and Disclosure of Financial Instruments''* (June 1995), respectively.

[34] *See* FAS 119 ¶ 12.

requirements, where possible, to minimize compliance costs of registrants.

III. Discussion of Proposed Amendments

A. Disclosure of Accounting Policies for Derivatives

1. Background

During the last several years, a significant number of issues relating to the accounting for derivatives have been raised. Although the FASB is working on a project that would address comprehensively the accounting for derivatives, currently there is very little authoritative literature on the accounting for options and complex derivatives, many of which are used frequently by registrants.[35]

In the absence of comprehensive literature, registrants are developing accounting practices for options and complex derivatives by analogy to the limited amount of literature that does exist. These analogies are complicated because existing derivative literature refers to at least three distinctly different methods of accounting for derivatives (*e.g.*, fair value accounting, deferral accounting, and accrual accounting)[36] and the underlying concepts and criteria used in determining the applicability of these accounting methods are not consistent.[37] As a result, during its 1994 and 1995 reviews of filings, the SEC staff observed that registrants may account for the same type of derivative in many different ways.[38] Thus, it was difficult to compare the financial statement effects of derivatives across registrants.

In order to provide a better understanding of the accounting for derivative financial instruments, paragraph 8 of FAS 119 requires disclosure of the policies used to account for such instruments, pursuant to the requirements of APB 22.[39] Specifically, FAS 119 emphasizes the disclosure of ''policies for recognizing (or not recognizing) and measuring derivative financial instruments . . . and when recognized, where those instruments and related gains and losses are reported in the statements of financial position and income.''[40] However, notwithstanding its helpful guidance, FAS 119 does not provide an explicit indication of what must be disclosed in accounting policies footnotes to make more understandable the effects of derivatives on the statements of financial position, cash flows, and results of operations, and it does not address disclosure of accounting policies for derivative commodity instruments. Thus, to facilitate a more informed assessment of the effects of derivatives on financial statements, the proposed amendments make explicit the items to be disclosed in the accounting policies footnotes for derivative financial instruments and derivative commodity instruments.

2. Proposed Disclosure Rule

The proposed amendments pertaining to accounting policies would add a new paragraph (n) to Rule 4–08 of Regulation S–X to require disclosure in the footnotes to the financial statements of (i) each method used to account for derivatives, (ii) types of derivatives accounted for under each method, (iii) the criteria required to be met for each accounting method used (*e.g.*, the manner in which risk reduction, correlation, designation, and/or effectiveness tests are applied), (iv) the accounting method used if the specified criteria are not met, (v) the accounting for the termination of derivatives designated as hedges or used to affect directly or indirectly the terms, fair values, or cash flows of a designated item, (vi) the accounting for derivatives if the designated item matures, or is sold, extinguished, terminated, or, if related to an anticipated transaction, is no longer likely to occur, and (vii) where and when derivatives and their related gains and losses are reported in the statements of financial position, cash flows, and results of operations.[41]

The proposed amendments would require registrants to distinguish between accounting policies used for derivatives entered into for trading purposes from those that are entered into for purposes other than trading.[42] Disclosure of accounting policies for derivatives would be required unless the registrant's derivative activities are not material. For this proposal, the materiality of derivatives activities would be measured by the fair values of derivative financial instruments and derivative commodity instruments at the end of each reporting period and the fair value of those instruments during each reporting period.

In essence, the proposed amendments clarify the application of the accounting policy disclosure requirements set forth in FAS 119 for derivative financial instruments. They also extend those requirements to address the disclosure of accounting policies for derivative commodity instruments.[43]

---

[35] The authoritative accounting literature for options and complex derivatives generally is limited to a few consensuses from the FASB Emerging Issues Task Force (''EITF''), which by their nature address the accounting for very specific transactions. *See, e.g.*, EITF Issues 88–8, *''Mortgage Swaps,''* and 90–17, *''Hedging Foreign Currency Risks with Purchased Options.''*

[36] Under the fair value method, derivatives are carried on the balance sheet at fair value with changes in that value recognized in earnings or stockholders' equity (*see, e.g., Statement of Financial Accounting Standards No. 52, ''Foreign Currency Translation''* (''FAS 52'') (December 1981), and FAS 80. Under the deferral method, gains and losses from derivatives are deferred on the balance sheet and recognized in earnings in conjunction with earnings of designated items (*see, e.g.*, FAS 52 and FAS 80). Under the accrual method, each net payment/receipt due or owed under the derivative is recognized in earnings during the period to which the payment/receipt relates; there is no recognition on the balance sheet for changes in the derivative's fair value (*see, e.g.*, EITF Issue 84–36, *''Interest Rate Swap Transactions''*).

[37] For example, the risk reduction criterion in FAS 52 is different from the risk reduction criterion in FAS 80. FAS 52 specifies risk reduction on a transaction basis, while FAS 80 specifies risk reduction on an enterprise basis. In addition, FAS 80 permits the use of deferral accounting for futures contracts used to hedge probable, but not firmly committed, anticipated transactions, while FAS 52 prohibits deferral accounting for foreign currency forward exchange contracts used to hedge those same types of anticipated transactions.

[38] The Commission does not mean to imply by this statement that registrants may justify the use of any method of accounting for derivatives. Rather registrants must select appropriate accounting methods that are consistent with generally accepted accounting principles. In particular, generally accepted accounting principles require registrants using derivatives for trading, dealing, or speculative purposes to recognize those instruments on the balance sheet at fair value with changes in that value recognized immediately in earnings (*see, e.g.*, FAS 80 ¶ 3).

[39] APB 22 ¶ 12 states:

Disclosure of accounting policies should identify and describe the accounting policies followed by the reporting entity and the methods of applying those principles that materially affect the determination of financial position, cash flows or results of operations. In general, the disclosure should encompass important judgments as to the appropriateness of principles relating to recognition of revenue and allocation of asset costs to current and future periods; in particular, it should encompass those accounting principles and methods that involve . . . a selection from existing acceptable alternatives.

The Accounting Principles Board was the predecessor to the FASB. Unless superseded by FASB Statements, APB Opinions continue to be regarded as the highest level of generally accepted accounting principles followed by the accounting profession. *See generally* AICPA, *Statements on Auditing Standards No. 69, ''The Meaning of Present Fairly in Conformity With Generally Accepted Accounting Principles in the Independent Auditor's Report,''* ¶ 5 (March 1992); AU § 411.05.

[40] *See* FAS 119 ¶ 60.

[41] FAS 119 ¶ 11(b) also requires a description of where gains and losses from derivative financial instruments held or issued for purposes other than trading are reported in the statements of financial position and income.

[42] For purposes of this release, the term ''trading purposes'' has the same meaning as defined by generally accepted accounting principles (*see, e.g.*, FAS 119 ¶ 9a).

[43] *See* note 14, *supra*.

3. Requests for Comment

1. The proposed amendments requiring disclosure of accounting policies for derivatives are designed to make it easier for investors to assess the financial statement effects of derivative financial instruments and derivative commodity instruments. Would the proposed disclosures accomplish this objective? If not, are there specific disclosures about accounting policies that should be added or deleted?

2. The proposed amendments relating to disclosures of accounting policies are limited to derivative financial instruments and derivative commodity instruments. These proposed disclosure requirements do not add to the accounting policies disclosure requirements for other financial instruments, which are addressed by generally accepted accounting principles (*e.g.,* APB 22). Is the scope of instruments covered by the proposed amendments requiring additional accounting policies disclosures appropriate? If not, which instruments should be included or excluded?

3. Under the proposed amendments, disclosure of accounting policies would be required unless the registrant's derivative activities are not material. For this proposal, the materiality of derivatives activities would be measured by the fair values of derivative financial instruments and derivative commodity instruments at the end of each reporting period and the fair value of those instruments during each reporting period. Is this disclosure threshold appropriate? If not, what other threshold could be specified to require disclosure of all information a reasonable investor would consider important to decision-making (*e.g.,* would it be more appropriate to use a disclosure threshold similar to the threshold for quantitative and qualitative disclosures about market risk proposed in section III B3a of this release)?

B. Disclosures of Quantitative and Qualitative Information About Market Risk

1. Quantitative Information About Market Risk

a. Background

Market risk is inherent in both derivative and non-derivative instruments, including:

• Derivative financial instruments—futures, forwards, swaps, options, and other financial instruments with similar characteristics;

• Other financial instruments—non-derivative financial instruments, such as investments, loans, structured notes, mortgage-backed securities, indexed debt instruments, interest-only and principal-only obligations, deposits, and other debt obligations;

• Derivative commodity instruments that are reasonably possible [44] to be settled in cash or with another financial instrument—commodity futures, commodity forwards, commodity swaps, commodity options, and other commodity instruments with similar characteristics, to the extent such instruments are not derivative financial instruments.

Generally accepted accounting principles and Commission rules require disclosure of certain quantitative information pertaining to some of these derivative financial instruments. For example, registrants currently are required to disclose notional amounts of derivative financial instruments and the nature and terms of debt obligations.[45] However, this information (i) often is abbreviated, (ii) is presented piecemeal in different parts of the financial statements, and (iii) does not apply to all market risk sensitive instruments. Thus, investors often are unable to assess whether or how particular financial and commodity instruments affect a registrant's net market risk exposure.

FAS 119 encourages, but does not require, disclosure of quantitative information about the overall market risk inherent in derivative financial instruments and other instruments subject to market risk.[46] However, the SEC staff has observed that registrants often do not make these disclosures.

b. Proposed Disclosure Rule

To allow investors to assess more easily overall market risk, the proposed amendments would create a new Item 305(a), which would require disclosure, outside the financial statements,[47] of quantitative market risk information for derivative financial instruments, other financial instruments, and derivative commodity instruments, to the extent it is material. This information would be furnished using one of the following three ways, at the election of the registrant.[48]

(i) Tabular Presentation

The first quantitative market risk disclosure alternative would permit registrants to provide a tabular presentation of terms and information related to derivative financial instruments, other financial instruments, and derivative commodity instruments. Such information would include, but is not limited to, fair values of instruments, expected principal or transaction cash flows, weighted average effective rates or prices, and other relevant market risk related information. These data are common inputs to market risk measurement methods and, therefore, may be useful in understanding a registrant's exposure to market risk.

This tabular information would be summarized by risk exposure category (*i.e.,* interest rate risk, foreign currency exchange rate risk, commodity price risk, and other similar price risks, such as equity price risk) and, within the foreign currency exchange rate risk category, by functional currency [49] (*e.g.,* U.S. dollar, Japanese yen). Within each of these risk exposure categories, instruments would be grouped based on common characteristics. At a minimum, instruments would be distinguished by the following characteristics: (i) Fixed rate or variable rate assets or liabilities, (ii) long or short forwards or futures, (iii) written or purchased put or call options, (iv) receive fixed or receive variable interest rate swaps, and (v) the currency in which the instruments' cash flows are denominated. Thus, for example, within the interest rate risk exposure category, a registrant might present the following list of instruments: fixed rate Mexican peso investments, variable rate U.S. dollar

[44] *See* note 65, *infra,* for a definition specifying how the term ''reasonably possible'' is used in this release.

[45] *See, e.g.,* FAS 119 ¶ 8b and Rule 5–02 of Regulation S–X, 17 CFR 210.5–02.

[46] In particular, FAS 119 ¶ 12 lists five possible quantitative methods of measuring and disclosing market risk. They are: (i) details about current positions and perhaps activity during the period, (ii) the hypothetical effects on equity, or on annual income, of several possible changes in market price, (iii) a gap analysis of interest rate repricing or maturity dates, (iv) the duration of the financial instruments, and (v) the entity's value at risk from derivative financial instruments and from other positions at the end of the reporting period and the average value at risk during the year.

[47] *See* section III B3b, *infra,* for a discussion about where, outside the financial statements, these disclosures would appear.

[48] At the current time, the Commission is not proposing to prescribe standardized methods and procedures specifying how to comply with each of these disclosure alternatives. To the extent registrants use one of these methods internally, they would be permitted, but not required, to report quantitative measures of market risk using the same method externally. To facilitate comparison across registrants, the Commission proposes, below, that registrants provide descriptions of the model and assumptions used to prepare quantitative market risk disclosures.

[49] For purposes of this release, functional currency means the currency of the primary economic environment in which the entity operates; normally, that is the currency of the environment in which an entity primarily generates and expends cash. This definition is the same as the definition of functional currency in FAS 52, Appendix E.

debt obligations, long U.S. Treasury futures, and Mexican peso receive variable interest rate swaps. Derivatives used to manage risks inherent in anticipated transactions also would be disclosed separately.

For each instrument in the table, expected principal or transaction cash flow information would be presented separately for each of the next five years, with the remaining expected cash flows presented as an aggregate amount. The proposed amendments also would require disclosure of information on assumptions necessary to an understanding of a registrant's tabular market risk disclosures. In this regard, registrants would describe, at a minimum, the differing numbers reported in the table for various categories of instruments (*e.g.*, principal cash flows for debt, notional amounts for swaps, contract amounts for options and futures) and key prepayment and/or reinvestment assumptions relating to the timing of reported cash flow amounts. See the Appendix to the text of the proposed amendments for a sample disclosure.

(ii) Sensitivity Analysis

The second quantitative market risk disclosure alternative would permit registrants to provide disclosure of sensitivity analyses expressing the hypothetical loss in future earnings, fair values, or cash flows of market risk sensitive instruments over the next reporting period due to hypothetical changes in interest rates, currency exchange rates, commodity prices, and other similar market price changes (*e.g.*, equity prices).[50] For example, these disclosures may be similar to the interest rate ''sensitivity'' measures already required to be calculated for regulatory purposes for thrift institutions.[51] Under the proposed amendments, earnings, fair values, or cash flows sensitivity disclosures would be presented separately for interest rate sensitive instruments, currency exchange rate sensitive instruments, certain commodity price sensitive instruments, and other types of market risk sensitive instruments (*e.g.*, equity instruments).

The proposed amendments also would require disclosure of the assumptions and parameters underlying the registrant's sensitivity analysis model that are necessary to an understanding of the registrant's market risk disclosure. In this regard, registrants would specify, at a minimum, (i) how loss is defined by the model (*e.g.*, loss in earnings, fair values, or cash flows), (ii) a general description of the modeling technique (*e.g.*, change in net present values arising from parallel shifts in market rates or prices and how optionality is addressed by the model), (iii) the general types of instruments covered by the model (*e.g.*, derivative financial instruments, other financial instruments, derivative commodity instruments, and whether other instruments are included voluntarily in the model by the registrant, such as certain commodity instruments and positions, cash flows from anticipated transactions, and operating cash flows from non-financial and non-commodity instruments), and (iv) other relevant information on model parameters (*e.g.*, the magnitudes of parallel shifts in market rates or prices used for each category of market risk exposure, the method by which discount rates are determined, and key prepayment and/or reinvestment assumptions).

(iii) Value at Risk

The third quantitative disclosure alternative would permit registrants to provide value at risk disclosures expressing the potential entity-wide loss in fair values, earnings, or cash flows of market risk sensitive instruments that might arise from adverse market movements with a selected likelihood of occurrence over a selected time interval.[52] Additional separate value at risk disclosures would be required for interest rate sensitive instruments, currency exchange rate sensitive instruments, certain commodity price sensitive instruments, and other similar market risk sensitive instruments (*e.g.*, equities). In addition, to help place reported value at risk amounts in context, registrants would be required to report either (i) the average or range in value at risk amounts for the current reporting period, (ii) the average or range in actual changes in fair values, earnings, or cash flows from market risk sensitive instruments occurring during the current reporting period, or (iii) the percentage of actual changes in fair values, earnings, or cash flows from market risk sensitive instruments that exceeded the reported value at risk amounts during the current reporting period.

The proposed amendments also would require disclosure of the model assumptions and parameters underlying the registrant's value at risk model that are necessary to an understanding of the registrant's market risk disclosure. In this regard, registrants would specify, at a minimum, (i) how loss is defined by the model (*e.g.*, loss in fair values, earnings, or cash flows), (ii) a general description of the modeling technique (e.g., variance/covariance, historical simulation, Monte Carlo simulation, and how optionality is addressed by the model), (iii) the general types of instruments covered by the model (*e.g.*, derivative financial instruments, other financial instruments, derivative commodity instruments, and whether other instruments are included voluntarily in the model by the registrant, such as certain commodity instruments and positions, cash flows from anticipated transactions, and operating cash flows from non-financial and non-commodity instruments), and (iv) other material information on model parameters (*e.g.*, holding period, confidence interval, and the method used for aggregating value at risk amounts across market risk exposure categories, such as by assuming perfect positive correlation, independence, or by using actual observed correlations).[53]

(iv) Other Disclosure Requirements

The proposed amendments would require presentation of quantitative information about market risk at the end of the most recent fiscal year or at the end of the most recent reporting period for which a full set of financial statements is filed with the Commission. Under the proposed amendments, registrants would be required to provide separately quantitative information for market risk sensitive instruments that are entered into for trading purposes[54] and those

[50] The term ''sensitivity analysis,'' as used in this release, describes a general class of models that assesses the risk of loss in market risk sensitive instruments based on hypothetical changes in market rates or prices. The term sensitivity analysis is not meant to refer to any one model for quantifying market risk.

[51] *See* Office of Thrift Supervision, *Regulatory Capital: Interest Rate Risk Component*, 12 CFR 567.5(c)(4) (August 1993).

[52] The term ''value at risk,'' as used in this release, describes a general class of models that provide a probabilistic assessment of the risk of loss in market risk sensitive instruments. The term value at risk is not meant to refer to any one model for quantifying market risk. Value at risk models can be adapted to non-trading activities as well as trading activities and to non-financial institutions as well as financial institutions, depending on the model and assumptions selected by the registrant.

[53] The primary differences between the value at risk and sensitivity analysis disclosure alternatives are (i) value at risk analysis reports the potential loss arising from equally likely market movements across instruments, while sensitivity analysis reports the potential loss arising from hypothetical market movements with differing likelihoods of occurrence across instruments and (ii) value at risk explicitly adjusts the potential loss to reflect correlations between market movements, while sensitivity analysis is not designed explicitly to make such adjustments.

[54] *See* note 42, *supra*, for a definition specifying how the term ''trading purposes'' is used in this release.

that are entered into for purposes other than trading. In addition, in order to enable an investor to assess material changes in market risk information, the proposed amendments would require registrants to provide summarized information as of the end of the preceding fiscal year or comparable preceding period. Registrants also would be required to discuss the reasons for material changes in quantitative information about market risk when compared to the information reported in the previous period.[55] Registrants would be allowed to change methods of disclosing quantitative information about market risk (*e.g.*, changing from tabular presentation to value at risk). However, if they change methods, registrants would be required to (i) disclose the reasons for any such change and (ii) provide summarized comparable information, under the new disclosure method, as of the end of the period preceding the current reporting period.

(v) Encouraged Disclosures

In essence, the proposed amendments primarily are designed to make disclosures about market risk more comprehensive by requiring disclosure of quantitative information about market risk that are encouraged to be disclosed by FAS 119. The proposals apply to derivative financial instruments, other financial instruments, and derivative commodity instruments.[56]

The Commission recognizes that market risk exposures may exist in instruments, positions, and transactions other than in those derivative financial instruments, other financial instruments, and derivative commodity instruments that specifically would be subject to the proposed amendments. In particular, market risk, in its broadest view, also may be inherent in the following items:

- Derivative commodity instruments not reasonably possible to be settled in cash or with another financial instrument—such as a commodity forward contract that must be settled in the commodity;
- Commodity positions—such as investments in corn, wheat, oil, gas, lumber, silver, gold, and other commodity inventory positions;
- Cash flows from anticipated transactions[57]—such as cash flows from anticipated purchases and sales of inventory; and
- Operating cash flows from non-financial and non-commodity instruments— such as cash flows generated by manufacturing activities.

The Commission also recognizes, however, that the amount and timing of the cash flows inherent in such instruments, positions, and transactions often are difficult to estimate. In addition, most risk measurement systems currently do not include such instruments, positions, and transactions in their quantitative assessments of market risk. For these practical reasons, the Commission is not proposing at this time to require that these items be included in the proposed quantitative disclosures about market risk. However, registrants are encouraged, when practical, to include voluntarily these items in their quantitative market risk disclosures. If these instruments, positions, and transactions are not included voluntarily, registrants, nonetheless, should consider whether they must address this issue in their disclosures identifying limitations of the quantitative information, discussed below.[58]

(vi) Limitations

The proposed amendments would require that registrants discuss limitations that may cause the quantitative information about market risk not to reflect fully the overall market risk of the entity. This discussion would include (i) a description of each limitation and (ii) if applicable, a description of the instruments' features that are not reflected fully within the selected quantitative market risk disclosure alternative.

Two illustrative examples are provided. First, as just stated, the Commission is allowing certain instruments, positions, and transactions to be excluded from quantitative disclosures about market risk. The failure of a registrant to include such items in its disclosures, while permitted, is a limitation of the quantitative information provided. This limitation must be described if the registrant has material investments in these instruments, positions, and transactions that cause its disclosures not to portray fully the overall market risk of the entity.

Second, each of the quantitative disclosure alternatives may not alert investors of the degree of market risk inherent in instruments with leverage, option, or prepayment features (*e.g.*, structured notes, collateralized mortgage obligations, leveraged swaps, and swaps with embedded written options). Tabular information on expected future cash flows normally would not indicate that instruments have such features. Value at risk and sensitivity analysis models generally do not reflect the potential loss arising from all changes in market rates or prices. Thus, if leverage, option, or prepayment features are triggered by changes in market rates or prices outside those reflected in the value at risk and sensitivity analysis disclosures, the potential loss in these instruments may be significantly larger than would be implied by a simple linear extrapolation of the reported numbers. Thus, to make investors fully aware of the market risk inherent in instruments with such features, the proposed amendments would require a (i) discussion of this limitation of the quantitative disclosures and (ii) description of the leverage, option, or prepayment features of the instruments causing the limitation.

c. Requests for Comment

1. The proposed amendments are designed specifically to elicit disclosure of quantitative information to assist investors and others in making an overall assessment of market risk. The Commission recognizes that some investors may be unfamiliar with certain of the proposed quantitative disclosure methods. Thus, the Commission requests comment (a) on whether the proposed quantitative information is expected to improve investors' understanding of the market risk associated with business activities of a registrant and (b) on the extent to which investors will benefit from and understand the proposed quantitative market risk alternatives.

2. The proposed amendments relating to disclosure of quantitative information about market risk are limited to derivative financial instruments, other financial instruments, and derivative commodity instruments. In addition, when preparing these disclosures, registrants are encouraged to present information about all instruments,

[55] For transition purposes, the Commission is proposing that quantitative disclosures about market risk provided in the initial period after the rule is adopted would not contain comparable summarized information for the preceding period. Similarly, in the initial year after the rule is adopted, a discussion of the reasons for material changes in reported amounts as compared to the preceding period would not be necessary.

[56] These disclosures would be required for other financial instruments, even if a registrant does not enter into derivatives.

[57] *See* note 19, *supra*.

[58] In addition, registrants should review the requirements of Item 303 of Regulation S-K, 17 CFR 229.303, to ensure that disclosures are sufficient to inform readers of material risks to which a registrant is exposed. Thus, MD&A would need to discuss the risks relating to, for example, anticipated transactions or commodity positions, to the extent these transactions or positions have, or are reasonably likely to have, a material effect on the registrant's liquidity, capital resources, and results of operations.

positions, and cash flows subject to market risk. Is the scope of instruments covered by these proposed amendments sufficient? For example, should commodity positions with readily available market prices be required to be included in the quantitative disclosures? In addition, are there other instruments and positions that should be included or excluded?

3. The Commission is proposing to allow registrants to choose one of three alternatives to present quantitative information about market risk (*i.e.*, tabular presentation of expected future cash flows and terms, sensitivity analysis, or value at risk). Are these the most appropriate alternatives? If not, should some alternatives be added or deleted? For example, although the Commission has not proposed use of interest gap analysis and duration because these market risk measurement methods commonly are not used to describe the market risk inherent in non-interest rate sensitive instruments and non-fixed income instruments, respectively, should these methods also be allowed?

4. In this release, the Commission proposes amendments designed to allow investors to evaluate quantitatively the overall market risk inherent in derivative financial instruments, other financial instruments, and derivative commodity instruments. Although the proposals permit registrants to select one of three alternative quantitative disclosure methods, they require that the same general disclosure alternative (*i.e.*, tabular presentation of expected future cash flows and terms, sensitivity analysis, or value at risk) be used to describe quantitatively the market risk inherent (i) in each market risk exposure category (*e.g.*, interest rates, foreign currency exchange rates, and commodity prices) and (ii) in instruments entered into for trading and other than trading purposes. Is this approach practical? Should the Commission permit registrants to use different alternatives to report the market risk inherent (i) in different categories of market risk exposure and/or (ii) in instruments entered into for trading and other than trading purposes? If so, how will this affect the ability of investors to assess the overall market risk inherent in market risk sensitive instruments? Please explain.

5. The Commission recognizes that risk management methods are evolving, and no method is dominant in practice. The proposed amendments, therefore, do not require the use of a single measure or standardized procedures or assumptions for preparing quantitative market risk disclosures. As a result, quantitative information about market risk is not likely to be prepared in a uniform manner across registrants. However, to facilitate the analysis and comparison of quantitative market risk information among registrants, the Commission is proposing disclosure of the model and assumptions used to comply with the quantitative market risk amendments. Will the proposed disclosures about the model and key assumptions provide sufficient information for investors to compare market risk across registrants? Are there additional disclosures that might further investors' analysis and comparison? Is there a better approach to enhancing the comparability of the proposed disclosures? For example, despite the evolving risk management practices, should standardized procedures be developed for preparing disclosures across registrants? Alternatively, should minimum acceptable standards be set prescribing model parameters and assumptions?

6. The Commission recognizes that quantitative disclosures about market risk may be viewed as more meaningful for certain registrants than others. For example, because market risk is one of the primary business risks for financial institutions, quantitative information about market risk may be more meaningful when applied to financial institutions than the same information presented for registrants whose primary risks are not related to market risk.

In this regard, the Commission has proposed that registrants have the ability to choose among three disclosure alternatives. These alternatives reflect different degrees of sophistication in risk measurement methods, thereby permitting registrants flexibility to select a disclosure method which corresponds most closely to the degree of market risk inherent in their business activities. Are there better ways to address how information about market risk should be presented for the different types of registrants that file with the Commission? In particular, should financial institutions, such as bank holding companies, thrift holding companies, finance companies, investment banks, mortgage banks, broker-dealers, insurance companies, and similar types of registrants have a different set of disclosure requirements than other companies? If so, should financial institutions have more rigorous disclosure requirements than those proposed in this release or should non-financial institutions be exempted from certain of the proposed disclosures specified in this release?

7. In regard to the presentation of tabular information on the terms, cash flow amounts, and fair values of market risk sensitive instruments, the Commission has specified that information be disaggregated by risk exposure category and grouped further based on certain common instrument characteristics. Sample disclosures have been provided in the Appendix to the text of the proposed amendments to illustrate compliance with these requirements. Is the level of disaggregation specified in the requirements adequate? Is there a better way to present such information?

8. The proposed amendments requiring disclosure of quantitative information about market risk generally are designed to indicate the degree of market risk from normal market movements. The proposed disclosure alternatives do not specifically require estimates of the market risk inherent in unusual markets reflecting worst-case scenarios. Should the proposed amendments address specifically market risk in worst-case scenarios? If so, what would be a useful standard for determining and disclosing a worst-case scenario?

9. To help place the reported value at risk numbers in context, the proposed amendments require that registrants report either (i) the average or range in value at risk amounts for the current reporting period, (ii) the average or range in actual changes in fair values, earnings, or cash flows from market risk sensitive instruments during the current reporting period, or (iii) the percentage of actual changes in fair values, earnings, or cash flows from market risk sensitive instruments that exceeded the reported value at risk amounts during the current reporting period. Will this information be useful to investors and others? Since similar disclosures cannot be developed easily for the other disclosure alternatives for presenting quantitative information about market risk (*i.e.* tabular presentation of expected cash flows and terms and sensitivity analysis), should these disclosures be encouraged, rather than required?

10. To enable investors to assess material changes in market risk, the proposed amendments would require registrants to provide summarized quantitative information about market risk for the preceding fiscal year. In addition, registrants would be required to discuss the reasons for material changes in quantitative information about market risk when compared to the information reported in the previous period. Is this information necessary to an understanding of the current period market risk disclosures? If not, are there other types of information that would be

helpful to investors in assessing material changes in market risk?

11. Under the proposed amendments, registrants would be allowed to change methods of presenting quantitative information about market risk provided they (i) explain the reasons for the change and (ii) provide summarized comparable information under the new disclosure method for the period preceding the current reporting period. Should registrants be required to present comparable information for the period preceding the current reporting period when they change methods of presenting quantitative information about market risk?

12. The proposed amendments are focused on providing investors with improved disclosures about market risk sensitive instruments and the impact of market risk on a registrant's financial condition and results of operations. Other regulators and private sector entities have set forth proposals and made recommendations that would require disclosures about derivatives and similar instruments that go beyond the disclosures proposed under these proposed amendments.[59] Such recommendations relate to the disclosure of credit risk, liquidity risk, legal risk, and operational risk inherent in market risk sensitive instruments. The Commission notes that existing generally accepted accounting principles (*e.g.*, FAS 105) and Commission Regulations (*e.g.*, Items 101 and 303 of Regulation S–K, 17 CFR 229.101 and 229.303, respectively) already require some disclosures relating to these risks. Thus, at this time the Commission does not intend to propose additional disclosure requirements about these other risks inherent in market risk sensitive instruments. Is this decision appropriate?

13. Would any of the proposed amendments regarding quantitative disclosures about market risk require disclosure of information considered highly proprietary by registrants? Are there other methods of quantifying and disclosing market risk that would be useful to investors and present fewer proprietary concerns?

2. Qualitative Information About Market Risk

a. Background

A qualitative discussion of a registrant's market risk exposures and how those exposures are managed is important to an understanding of a registrant's market risk. Such qualitative disclosures help place market risk management activities in the context of the business and, therefore, are a useful complement to quantitative information about market risk.

FAS 119 requires that certain qualitative disclosures be provided about market risk management activities associated with derivative financial instruments held or issued for purposes other than trading. In particular, FAS 119 requires disclosure of ''the entity's objectives for holding or issuing the derivative financial instruments, the context needed to understand those objectives, and its general strategies for achieving those objectives.''[60] In addition, FAS 119 requires separate disclosures about derivative financial instruments used as hedges of anticipated transactions.[61] As indicated above, these requirements of FAS 119 only apply to certain derivatives held or issued for purposes other than trading.

b. Proposed Disclosure Rule

In essence, the proposed qualitative disclosure requirements would create a new Item 305(b) of Regulation S–K, which would expand certain FAS 119 disclosures to (i) encompass derivative commodity instruments, other financial instruments, and derivative financial instruments entered into for trading purposes and (ii) require registrants to evaluate and describe material changes in their primary risk exposures and material changes in how those exposures are managed. In particular, the proposed amendments would require narrative disclosure outside the financial statements[62] of (i) a registrant's primary market risk exposures[63] and (ii) how those exposures are managed (*e.g.*, a description of the objectives, general strategies, and instruments, if any, used to manage those exposures).

In preparing the proposed qualitative disclosures about market risk, the Commission expects that registrants would describe their primary market risk exposures as they exist at the end of the current reporting period and how those risks currently are being managed. Registrants also would be required to describe material changes in their primary market risk exposures and material changes in how these risks are managed as compared to what was in effect during the most recent reporting period and what is known or expected to be in effect in future reporting periods.

These proposed qualitative disclosure requirements would apply to derivative financial instruments, other financial instruments, and derivative commodity instruments. As in the case with respect to the quantitative disclosures about market risk, the qualitative disclosures should be presented separately for market risk sensitive instruments that are entered into for trading purposes and those that are entered into for purposes other than trading. In addition, qualitative information about market risk should be presented separately for those instruments used to manage risks inherent in anticipated transactions.

Finally, to help make disclosures about market risk more comprehensive, as is the case with the quantitative disclosures about market risk, the Commission also is proposing to encourage registrants to disclose qualitative information about market risk relating to other items, such as derivative commodity instruments not reasonably possible to be settled in cash or with another financial instrument, commodity positions, cash flows from anticipated transactions, and operating cash flows from non-financial and non-commodity instruments (*e.g.*, cash flows generated by manufacturing activities).[64]

c. Requests for Comment

1. The proposed amendments regarding qualitative disclosure about market risk are designed to put market risk management activities into the context of a registrant's overall business. Does this qualitative information allow investors to understand better the management of market risk inherent in the business activities of a registrant? If not, are there other disclosure alternatives that would be more effective?

[59] *See* notes 25 and 27, *supra*.

[60] *See* FAS 119 ¶ 11a. Footnote 4 of FAS 119 illustrates the qualitative disclosures required by ¶ 11a. That footnote states:

If an entity's objective for a derivative position is to keep a risk from the entity's non-derivative assets below a specified level, the context would be a description of those assets and their risks, and a strategy might be purchasing put options in a specified proportion to the assets at risk.

[61] *See* FAS 119 ¶ 11c.

[62] *See* section III B3b, *infra*.

[63] For purposes of this release, primary market risk exposures mean (i) the following categories of market risk: interest rate risk, foreign currency exchange rate risk, commodity price risk, and other similar market rate or price risks (*e.g.*, equity prices) and (ii) within each of these categories, the particular markets that present the primary risks of loss to the registrant. For example, if a registrant (i) has a material exposure to foreign currency exchange rate risk and (ii) is most vulnerable to changes in dollar/yen, dollar/pound, and dollar/peso exchange rates within this category of market risk, it would disclose these exposures.

[64] *See* section III B1b(v), *supra*, for a discussion as to why these instruments are encouraged, but not required, to be included in disclosures about market risk.

2. Would any of the proposed amendments regarding qualitative disclosures about market risk require the disclosure of information considered highly proprietary in nature? Are there other disclosures that would be useful to investors and present fewer proprietary concerns?

3. The proposed amendments relating to disclosure of qualitative information about market risk are limited to derivative financial instruments, other financial instruments, and derivative commodity instruments. In addition, when preparing these disclosures, registrants are encouraged, but not required, to present information about all instruments, positions, and cash flows subject to market risk. Is the scope of instruments covered by this proposed amendment sufficient? If not, which instruments should be included or excluded?

3. Implementation Issues Relating to Quantitative and Qualitative Disclosures About Market Risk

a. Disclosure Threshold

(i) Discussion

Under the proposed amendments, registrants would be required to make quantitative and qualitative disclosures about market risk when such risk is material. For purposes of making this materiality assessment, registrants would need to consider both (i) the materiality of the fair values of derivative financial instruments, other financial instruments, and derivative commodity instruments outstanding at the end of the current reporting period and (ii) the materiality of the potential loss in future cash flows, earnings, or fair values from reasonably possible market movements.[65] If either (i) or (ii) in the previous sentence are material, registrants would have to disclose qualitative and quantitative information about market risk.

In determining the fair values of market risk sensitive instruments outstanding at the end of the current reporting period, registrants generally should not net fair values, except to the extent allowed under *FASB Interpretation No. 39, ''Offsetting of Amounts Related to Certain Contracts''* (''Interpretation 39'') (March 1992).[66] For example, the fair value of assets generally should not be netted with the fair value of liabilities. Instead, the fair values of such instruments should be aggregated, without netting, for purposes of assessing materiality.[67]

In determining the materiality of the potential loss in future earnings or fair values from reasonably possible market movements, registrants should consider (i) the magnitude of past market movements, (ii) expectations about the magnitude of reasonably possible future market movements, and (iii) potential losses that may arise from leverage, option, and/or multiplier features.

(ii) Requests for Comment

In developing the proposed disclosure thresholds, the Commission was interested in establishing thresholds that considered the materiality of fair values of market risk sensitive instruments at the end of a reporting period and the potential for market risk in those instruments in future periods. The Commission believes an assessment of the materiality of the instruments held at period end is appropriate because investors are likely to be concerned about the market risk exposure of an entity whenever their financial statements indicate material investments in derivative financial instruments, other financial instruments, and derivative commodity instruments. Without such disclosure, investors likely would be unable to determine the magnitude of the combined market risk exposure inherent in these individual instruments. Similarly, the Commission believes an assessment of the risk of loss in earnings, cash flows, or fair values from reasonably possible future market movements is necessary to capture, for example, the potential exposure to market risk in instruments with leverage, written option, or prepayment features that may not be reflected fully in fair values at period end.

Are these proposed disclosure thresholds relating to quantitative and qualitative disclosures about market risk, including the guidance relating to netting of fair values of market risk sensitive instruments, appropriate? Are there other disclosure thresholds that would provide more meaningful information to investors? For example, for purposes of determining the materiality of fair values of market risk sensitive instruments at period end, would it be better to determine a disclosure threshold based on the materiality of the larger of the fair values of (i) assets, and ''off-balance-sheet'' unrecognized assets or (ii) liabilities and ''off-balance-sheet'' unrecognized liabilities? Alternatively, would the disclosure thresholds for MD&A be more appropriate?[68]

Finally, should the Commission take a different approach to materiality assessments by specifying quantitative indicators that provide a threshold for disclosure, such as ratios of certain notional amounts, contractual amounts, fair values, and/or potential future losses to either stockholders' equity, earnings from continuing operations, and/or some other amount? If so, what specific indicators should result in disclosure (*e.g.*, fair value amounts in excess of 10% of stockholders' equity, or some other percentage of stockholders' equity or some other amount; notional and contractual amounts in excess of a specified percentage of stockholders' equity; and/or potential loss in earnings or fair values in excess of a specified percentage of earnings from continuing operations)? If specific indicators are used, should netting of certain amounts be permitted?

b. Location of Quantitative and Qualitative Disclosures

(i) Discussion

The proposed qualitative and quantitative market risk disclosure amendments specify that these disclosures be placed outside the financial statements. Thus, for example, this information would be required to be included in the annual report to shareholders, but would be located outside the financial statements covered by the audit opinion. The proposed disclosures are designed to supplement and make complete existing information about market risk sensitive instruments (*e.g.*, information required to be disclosed by FAS 119) that currently appears in prospectuses, registration statements, reports, and other documents that are used to make investment and voting decisions and that are delivered to investors and shareholders. Thus, the Commission is

---

[65] For purposes of this release, the term ''reasonably possible'' is defined by ¶ 3 of FASB, *Statement of Financial Accounting Standards No. 5,* ''Accounting for Contingencies'' (''FAS 5'') (March 1975), which states that ''reasonably possible'' means the chance of a future transaction or event occurring is more than remote but less than likely.

[66] Interpretation 39 states that it is a general principle of accounting that the offsetting of assets and liabilities in the balance sheet is improper except where a right of set off exists. Interpretation 39 defines right of set off and specifies what conditions must be met to have that right. FAS 119 ¶ 15(d) in disclosing the fair values of instruments also prohibits the netting of fair values, except to the extent that the offsetting of carrying amounts in the statement of financial position is permitted under Interpretation 39.

[67] In general, the Commission is not proposing the netting of fair values for purposes of assessing materiality primarily because it believes the establishment of a set of netting rules for fair values would be complex and difficult to implement.

[68] *See* SEC Financial Reporting Policies § 501.02 for the interpretative release to Item 303 of Regulation S-K, which specifies the MD&A disclosure thresholds.

recommending that the proposed market risk disclosures be included in such documents delivered to investors and shareholders, rather than included in documents filed only with the Commission.

(ii) Request for Comment

The Commission recognizes that the proposed disclosures may be complex, especially given the requirement to describe, when appropriate, the model and key assumptions used to prepare the quantitative disclosures about market risk. Given this complexity, would it be better to disclose the proposed information about market risk in reports and statements filed with the Commission that are not required to be delivered to all shareholders and investors? If so, will investors be disadvantaged by the omission of such information from delivered documents if it is otherwise required to be included in Commission filings and made available for free electronically and immediately through the SEC's EDGAR system?

c. Relationship of Proposed Disclosures to MD&A

Market risk sensitive instruments often are used to manage known uncertainties in market rates and prices. Under Item 303 of Regulation S–K, registrants currently are required to disclose in MD&A, among other things, the impact on past and future financial condition and results of operations of known uncertainties. Thus, there is a potential for overlap between the proposed amendments under new Item 305 and current Item 303. To the extent that the disclosures in a registrant's MD&A comply with the proposed amendments, registrants would not need to repeat this information elsewhere in their filings. Likewise, if the proposed disclosures are provided in the footnotes to the financial statements, that information also would not need to be reported elsewhere.

d. Application to Registrants

(i) Discussion

New Item 305 would require that all registrants currently required to provide MD&A disclosures, pursuant to Item 303 of Regulation S–X, also would have to comply with proposed Item 305 of Regulation S–K. As a result, to the extent material, quantitative and qualitative information about market risk would be required explicitly for many different types of registrants, including, for example, commercial and industrial companies, financial institutions, broker dealers, service companies, business development companies, and companies registering insurance contracts, such as market-value adjusted annuities and real estate funds underlying annuity contracts.

(ii) Request for Comment

Should proposed Item 305 of Regulation S–K be required for all registrants that prepare MD&A pursuant to Item 303 of Regulation S–K? If not, which registrants should be exempted from proposed Item 305 of Regulation S-K? In particular, should business development companies and companies registering insurance contracts be exempted from proposed Item 305?

e. Safe Harbor Provision

As noted by the FASB, some have expressed concern that disclosing information about market risk may have legal ramifications for registrants if actual outcomes differ from the market risk amounts disclosed.[69] It is the Commission's intention that forward looking disclosures made pursuant to proposed Item 305 of Regulation S–K and Item 9A of Form 20–F be subject to an appropriate safe harbor.

Congress recently adopted the Private Securities Litigation Reform Act of 1995 [70] that, among other things, amends the Securities Act and Securities Exchange Act to include a safe harbor for forward looking information. The Commission's staff is continuing to consider how best to craft an appropriate safe harbor in light of this recent legislation. The Commission intends to issue a release shortly that would propose that the disclosures to be required by new Items 305 and 9A be made subject to safe harbor provisions. Comments received on that release will be considered in connection with the comments received on this release to enable the Commission to take appropriate action with respect to both releases at the same time.

IV. Applicability of Proposed Amendments

A. Application to Small Business Issuers

1. Discussion

The Commission believes that because of the newness and evolving nature of these disclosures, as well as the relative costs of complying with these disclosures for small business issuers,[71] that it is appropriate, at this time, to exempt small business issuers from the proposed disclosures of quantitative and qualitative information about market risk. Accordingly, at this time, the Commission is not proposing to amend Regulation S–B to incorporate an item similar to proposed Item 305 of Regulation S–K. Small business issuers, however, still would be required (i) to comply with the proposed amendment regarding accounting policies disclosures for derivatives, (ii) to comply with Rule 12b–20 and Rule 408 as described in section VI of this release, thereby being responsive to guidance reminding registrants to provide additional information about the effects of derivatives on information expressly required to be filed with the Commission, and (iii) to the extent market risk represents a known trend, event, or uncertainty, to discuss the impact of market risk on past and future financial condition and results of operations, pursuant to Item 303 of Regulation S–B, 17 CFR 228.303.

2. Request for Comment

Should small business issuers be excluded from either a portion or all of the proposed quantitative and qualitative disclosures about market risk? If not, should application of these proposed amendments to small business issuers be delayed to provide them more time to become familiar with and implement the amendments?

B. Application to Foreign Private Issuers

1. Discussion

The need for improved disclosures about market risk sensitive instruments is not an issue limited to domestic registrants. Standard setters throughout the world have recognized and have begun to address the need for improvement in such disclosures for foreign companies, including some foreign private issuers that have registered securities with the Commission.[72] The Commission is proposing to amend Form 20–F to require disclosure by all foreign private

[69] *See* FAS 119 ¶ 73. Under the Commission's current safe harbor rules, a statement made by or on behalf of an issuer is not deemed a fraudulent statement unless it can be shown that the statement was made or reaffirmed without a reasonable basis or was disclosed other than in good faith. *See* Rule 175 under the Securities Act of 1933 and Rule 3b–6 under the Securities Exchange Act of 1934. The Commission has been re-examining Rules 175 and 3b–6. *See* Securities Act Release No. 7101 (October 13, 1994), 59 FR 52723 (October 19, 1994).

[70] Private Securities Litigation Reform Act of 1995, Pub. L. No. 104–67 (December 22, 1995).

[71] ''Small business issuer'' is defined to mean any entity that (1) has revenues of less than $25,000,000, (2) is a United States or Canadian issuer, (3) is not an investment company, and (4) if a majority owned subsidiary, the parent corporation is also a small business issuer. An entity is not a small business issuer, however, if it has a public float (the aggregate market value of the outstanding securities held by non-affiliates) of $25,000,000 or more, 17 CFR 230.405.

[72] *See* note 33, *supra.*

issuers of quantitative and qualitative information about market risk.

In addition, those foreign private issuers that prepare financial statements in accordance with Item 18 of Form 20–F would be required to provide descriptions in the footnotes to the financial statements of the policies used to account for derivatives. In contrast, foreign private issuers that prepare financial statements in accordance with Item 17 of Form 20–F are not required to provide financial statement disclosures required by generally accepted accounting principles and Regulation S–X, including disclosures about accounting policies.[73] Thus, the proposed amendments requiring disclosures of accounting policies would not apply to foreign private issuers filing under Item 17 of Form 20–F. However, foreign private issuers filing under Item 17 of Form 20–F would need to consider the guidance presented in Staff Accounting Bulletin Topic 1:D (''SAB Topic 1:D'') to determine if information regarding accounting policies for derivatives should be provided in MD&A.[74]

2. Request for Comment

Should foreign private issuers be subject to the proposed amendments? In particular, are the proposed differences in disclosure that would be applicable to foreign private issuers that file under Items 17 and 18 of Form 20–F appropriate? For example, should foreign private issuers filing under Item 17 of Form 20–F be required to provide accounting policies disclosures? Should application of some or all of the proposed amendments to foreign private issuers be delayed to provide them more time to become familiar with and implement the amendments? If so, which portions of the proposed amendments should be delayed and what period of delay would be appropriate (six months, one year, or some other time period)?

C. Scope and Definition of Instruments

For purposes of this release, financial instruments, derivative financial instruments, other financial instruments, and derivative commodity instruments are defined as follows. ''Financial instruments'' have the same meaning as that set forth in paragraph 3 of FAS 107.[75] ''Derivative financial instruments'' are a subset of financial instruments and include futures, forwards, swaps, options, and other financial instruments with similar characteristics, as defined by paragraphs 5–7 of FAS 119.[76]

Other financial instruments include all financial instruments as defined in paragraph 3 of FAS 107, except for derivative financial instruments, as defined above. For example, other financial instruments include trade accounts receivable, investments, loans, structured notes, mortgage-backed securities, trade accounts payable, indexed debt instruments, interest-only and principal-only obligations, deposits, and other debt obligations. However, for purposes of this release, trade accounts receivable and trade accounts payable should not be considered other financial instruments when their carrying amounts approximate fair value.

Commodity derivative instruments include, to the extent such instruments are not derivative financial instruments, commodity futures, commodity forwards, commodity swaps, commodity options, and other commodity instruments with similar characteristics, that are reasonably possible to be settled in cash or with another financial instrument.[77]

Thus, the instrument definitions described above do not encompass (i) commodity positions, (ii) derivative commodity instruments that are not reasonably possible to be settled in cash or with another financial instrument (*e.g.*, a commodity forward contract that must be settled in the commodity), (iii) cash flows from anticipated transactions, and/or (iv) operating cash flows from non-financial and non-commodity instruments.[78]

D. Reporting Frequency

1. Discussion

The proposed amendments would apply to all registration statements filed under the Securities Act and all reports and proxy and information statements filed under the Exchange Act that are required to include or incorporate financial statements. However, for reports that only include interim financial statements (*e.g.*, Form 10–Qs), the proposed amendments would need to be complied with only to the extent there has been a material change in the information disclosed as of the preceding fiscal year end. Thus, for example, the quantitative and qualitative information about market risk required by the proposed amendments would be included in interim filings only if there was a material change in that information when compared to the information

[73] Foreign private issuers complying with Item 18 of Form 20–F must provide all information required by US generally accepted accounting principles and Regulation S–X. Disclosures required by US generally accepted accounting principles but not required by foreign generally accepted accounting principles on which the financial statements are prepared need not be furnished pursuant to Item 17 of Form 20–F. Compliance with Item 17 of Form 20–F is acceptable for registration statements or annual reports on Form 20–F. With certain exceptions, foreign private issuers offering securities must comply with Item 18 of Form 20–F.

[74] SAB Topic 1:D provides several examples of disclosures in MD&A that might be necessary to enable readers to understand the financial statements as a whole. One of those example disclosures includes significant accounting policies and measurement assumptions which may bear upon an understanding of operating trends or financial condition.

[75] FAS 107 ¶ 3 states:

A financial instrument is defined as cash, evidence of an ownership interest in an entity, or a contract that both:

a. Imposes on one entity a contractual obligation (1) to deliver cash or another financial instrument to a second entity or (2) to exchange other financial instruments on potentially unfavorable terms with the second entity.

b. Conveys to that second entity a contractual right (1) to receive cash or another financial instrument from the first entity or (2) to exchange other financial instruments on potentially favorable terms with the first entity.

[76] FAS 119 ¶¶ 5–7 state:

5. For purposes of this Statement, a *derivative financial instrument* is a futures, forward, swap, or option contract, or other financial instrument with similar characteristics.

6. Examples of other financial instruments with characteristics similar to option contracts include interest rate caps or floors and fixed-rate loan commitments. Those instruments have characteristics similar to options in that they provide the holder with benefits of favorable movements in the price of an underlying asset or index with limited or no exposure to losses from unfavorable price movements, generally in return for a premium paid at inception by the holder to the issuer. Variable-rate loan commitments and other variable-rate financial instruments also may have characteristics similar to option contracts. For example, contract rate adjustments may lag changes in market rates or be subject to caps or floors. Examples of other financial instruments with characteristics similar to forward contracts include various kinds of commitments to purchase stocks or bonds, forward interest rate agreements, and interest rate collars. Those instruments are similar to forwards in that they provide benefits of favorable movements in the price of an underlying asset or index and exposure to losses from unfavorable price movements, generally with no payments at inception.

7. The definition of *derivative financial instrument* in paragraph 5 excludes all on-balance-sheet receivables and payables, including those that ''derive'' their values or contractually required cash flows from the price of some other security or index, such as mortgage-backed securities, interest-only and principal-only obligations, and indexed debt instruments. It also excludes option features that are embedded within an on-balance-sheet receivable or payable, for example, the conversion feature and call provisions embedded in convertible bonds.

[77] The term ''reasonably possible'' as used in the proposed rulemaking amendments is consistent with ¶ 3 of FAS 5, which defines ''reasonably possible'' to mean the chance of a future transaction or event occurring is more than remote but less than likely.

[78] *See* section III B1b(v), *supra,* for a further description of the instruments, positions, and transactions described in this paragraph.

presented as of the end of the preceding fiscal year.

2. Request for Comment

Is the frequency of reporting proposed in the amendments adequate? Alternatively, given that market risk sensitive instruments allow a registrant to change rapidly its exposures to market risk, should the proposed disclosures be provided in all interim filings?

V. General Request for Comment

The Commission seeks comment from all interested persons wishing to address any aspect of the proposed amendments. In addition to the requests for comments listed throughout this release, the Commission also is requesting comment on whether the proposed amendments, if adopted, would have an adverse impact on competition or would impose a burden on competition that is neither necessary nor appropriate in furthering the purposes of the Securities Act and the Exchange Act. Comments in this regard will be considered by the Commission in complying with its responsibilities under Section 23(a) of the Exchange Act, 15 U.S.C. 78w(a).

VI. Disclosure of the Effects of Derivative Instruments on Reporting Financial Instruments, Commodity Positions, Firm Commitments, and Anticipated Transactions

In conjunction with the publication today of proposed rules to require specific additional disclosures concerning market risk sensitive instruments, including derivatives, the Commission is taking this opportunity to remind registrants of existing obligations that may already require certain disclosures about derivatives. The staff's 1994 and 1995 reviews of registrant filings suggested that some registrants may not be providing sufficient disclosure about how derivatives directly or indirectly affect reported items. As a result, those disclosures that are being made may not accurately reflect such matters as the effective terms or expected cash flows of the reported items.

It is fundamental that registrants must include in any filings or reports any material information that may be necessary to make statements made, in light of the circumstances under which they are made, not misleading.[79] That is, registrants must provide disclosure about derivatives that affect, directly or indirectly, the terms, fair values, or cash flows, of the reported items. This would include derivative transactions that are designated to reported items under generally accepted accounting principles.[80]

Thus, for example, information required to be disclosed in the footnotes to the financial statements about the interest rates and repricing characteristics of debt obligations should include, when material, the effects of derivatives. Similarly, summary information and disclosures in MD&A about the interest costs of debt obligations should include, when material, disclosure of the effects of derivatives. Likewise, when derivatives directly or indirectly affect the terms and cash flows of items such as securities held as assets, servicing rights, oil and gas reserves, loan receivables, deposit liabilities, and leases, disclosure about the terms and cash flows of these items should include, when material, disclosure of the effects of derivatives to the extent such disclosure is necessary to prevent the disclosure about the reported item from being misleading.

VII. Cost-Benefit Analysis

A. Background

To assist the Commission in its evaluation of the costs and benefits that may result from the proposed disclosure requirements discussed in this release, commenters are requested to provide views and data relating to any costs and benefits associated with the proposed amendments. In general, the proposed amendments clarify existing standards and rules, include additional instruments within existing standards, and provide alternatives for quantitative disclosures regarding market risk sensitive instruments. In particular, the proposed amendments provide:

1. Enhanced descriptions of accounting policies for derivative financial instruments and derivative commodity instruments;
2. Quantitative disclosures about market risk; and
3. Qualitative disclosures about market risk.

The Commission is proposing these amendments in response to requests from investors and others to provide more meaningful information about market risk sensitive instruments.[81] The expected benefits of these proposed amendments are to make information about market risk sensitive instruments, including derivative instruments, more understandable to investors and others. This increased understanding is expected to enhance the ability of investors to make investment decisions and also improve the efficiency of markets. The Commission believes these benefits will outweigh the related costs, which are discussed below.

B. Descriptions of Accounting Policies for Derivatives

FAS 119 was designed, in part, to help investors and others understand how derivative financial instruments are reported in the financial statements.[82] Thus, FAS 119 requires, among other things, disclosure of the policies used to account for derivative financial instruments, pursuant to the requirements of APB 22.[83] However, the scope of FAS 119 is limited to derivative financial instruments; therefore, it does not apply to other derivative instruments with similar characteristics, such as derivative commodity instruments. In addition, FAS 119 does not provide explicit guidance indicating what must be described in accounting policies footnotes to make the financial statement effects of derivatives more understandable. The SEC staff found that the accounting policies footnotes for derivatives often were too general in nature, not reflecting adequately the many choices made by registrants in their accounting for derivatives.

The current proposed amendments require descriptions of accounting policies for derivative financial instruments and derivative commodity instruments, unless the registrant's derivative activities are not material. Thus, the scope of the proposed amendments is broader than the scope of FAS 119. In addition, to help make clear the impact of derivatives on the financial statements, the proposed amendments make explicit the items to be disclosed in the accounting policies footnotes.

The proposed amendments are likely to result in a more focused and descriptive discussion of the accounting policies for both derivative financial instruments and derivative commodity instruments. This additional information is likely to result in additional preparation, audit, and printing costs. However, because accounting policies for these instruments are known by registrants and should be known by their auditors,

[79] *See, e.g.,* Rule 12b–20, 17 CFR 240.12b–20, under the Securities Exchange Act of 1934 (''Exchange Act'') and Rule 408, 17 CFR 230.408 under the Securities Act of 1933 (''Securities Act'').

[80] *See, e.g.,* FAS 52 ¶ 21a and FAS 80 ¶ 4a.

[81] *See* notes 23–29, *supra,* for examples of investors, regulators, and other private bodies endorsing or recommending improved quantitative disclosures about market risk.

[82] See FAS 119 ¶ 60.

[83] *See* FAS 119 ¶ 8. *See also* note 39, *supra,* for a discussion of the requirements of APB 22.

most of the preparation and audit costs are expected to relate to initial compliance with the proposed amendments. These costs, along with expected printing costs, are not estimated to be significant. Other costs, such as ongoing recordkeeping and compliance costs, also are not expected to be significant.

C. Quantitative Information About Market Risk

As discussed earlier in this release, under the proposed amendments, registrants would be required to present quantitative information about market risk. An important aspect of this requirement, from a cost perspective, is that registrants will have the flexibility to choose one of three disclosure alternatives (tabular presentation, sensitivity analysis, or value at risk) to provide such quantitative information about market risk.

The Commission believes that, for registrants electing to provide tabular disclosure, much of the required information is currently available. Thus, additional costs relating to recordkeeping are not expected to be significant. While increased reporting and compliance burdens may result, in many cases the information presented in the tabular disclosures is used in managing the business activities of the registrant and, therefore, may be available at relatively low incremental costs. Further, registrants complying with Securities Act Industry Guide 3,[84] principally financial institutions, already disclose a significant amount of the requested information.

Registrants that choose to use either the sensitivity or value at risk disclosure alternatives may incur significant additional costs if they currently do not use these methodologies to manage market risk. In contrast, if registrants currently use sensitivity or value at risk analyses to manage market risk, the Commission believes that any additional costs associated with complying with the proposed amendments are likely to be negligible. In addition, the Commission understands that some of the data and the systems needed to develop these analyses recently have been made available at a relatively moderate cost.[85] Moreover, some registrants are required to prepare such information for regulatory capital measurement purposes. In particular, thrift institutions are required to prepare fair value sensitivity analysis amounts for risk-based capital purposes.[86] Also, bank holding companies may be required, under a proposed rulemaking requirement, to prepare a value at risk analysis for risk-based capital purposes.[87] Thus, the costs associated with the sensitivity and value at risk analyses may vary depending on (i) whether the registrant currently engages in these analyses for other management or regulatory purposes and (ii) the particular model and assumptions used in the registrant's calculations. Any registrant that believes the cost of such analyses outweigh the benefits of disclosing them, however, may elect to provide tabular presentation of information about market risk sensitive instruments.

D. Qualitative Information About Market Risk

FAS 119 requires certain qualitative disclosures about the market risk management activities associated with derivative financial instruments held or issued for purposes other than trading. In particular, FAS 119 requires disclosure of "the entity's objectives for holding or issuing the derivative financial instruments, the context needed to understand those objectives, and its general strategies for achieving those objectives." [88] However, as indicated above, these requirements of FAS 119 only apply to certain derivative financial instruments, and the SEC staff has observed that these disclosures typically have been general in nature, providing only limited insight into an entity's overall market risk management activities.

In essence, the proposed amendments expand certain disclosure requirements set forth in FAS 119 to (i) encompass derivative financial instruments entered into for trading purposes, other financial instruments, and derivative commodity instruments and (ii) require registrants to evaluate and describe material changes in their primary risk exposures and their market risk management activities. The Commission believes this should present a more complete discussion of a registrant's exposure to market risks and the way it manages those risks. Because this information is likely to be used by registrants as part of their risk management activities, incremental costs relating to such disclosure are not expected to be significant.

E. Small Business Issuers

As noted earlier, the Commission has determined not to amend Regulation S-B [89] to incorporate an item similar to Item 305 of Regulation S-K. Regulation S-B may be used by small business issuers [90] required to register their securities with the Commission. By excluding small business issuers from all but the accounting policies disclosures that would be required by the proposed amendments, the Commission has limited substantially the cost of these proposals for small entities.

The Commission will reassess reporting, recordkeeping, compliance requirements, and other cost-benefit issues in light of comments it receives in response to the proposed amendments.

VII. Summary of Initial Regulatory Flexibility Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis pursuant to the requirements of the Regulatory Flexibility Act,[91] regarding the proposed amendments to Rule 4–08 of Regulation S–X and to Regulation S–K to create Item 305. Additionally, the Commission is proposing amendments to Forms S–1, S–2, S–4, S–11, and F–4 under the Securities Act of 1933, and Rule 14a–3, Schedule 14A and Forms 10, 20–F, 10–Q, and 10–K under the Exchange Act. The analysis notes that the amendments would clarify existing disclosure requirements, include additional instruments within existing disclosure requirements, and provide disclosure alternatives for quantitative information regarding derivative financial instruments, other financial instruments, and derivative commodity instruments. These amendments are intended to provide investors with information that provides a clearer understanding of registrants' use of such instruments, and the market risks inherent in those instruments.

The analysis notes that, although the proposed amendments may increase the

[84] Securities Act Industry Guide 3, "*Statistical Disclosure by Bank Holding Companies.*" Exchange Act Industry Guide 3 is identical to the Securities Act guide. Detailed disclosures are required under Guide 3 of, among other things, the registrant's: (i) distribution of assets, liabilities and stockholders' equity; interest rates and interest differential; (ii) investment portfolio; (iii) loan portfolio (including types of loans, maturities and sensitivities of loans to changes in interest rates, risk elements, and loans outstanding in foreign countries); (iv) summary of loan loss experience; (v) deposits; (vi) return on equity and assets; and (vii) short-term borrowings.

[85] *See Wall Street Journal,* "Morgan Unveils the Way It Measures Market Risk" C1 (October 11, 1994).

[86] *See* note 51, supra.

[87] *See* Department of the Treasury, *Notice of Proposed Rulemaking, "Risk-Based Capital Standards: Market Risk,"* 60 FR 38082 (July 25, 1995): *see also* Federal Reserve System, *Request of Comments, "Capital Requirements for Market Risk,"* 60 FR 38142 (July 25, 1995).

[88] See FAS 119 ¶ 11a.

[89] 17 CFR 228.10 *et seq.*

[90] *See* note 71, *supra.*

[91] 5 U.S.C. § 603.

reporting burden for those registrants not currently providing comparable disclosures, there should not be a significant impact on recordkeeping or other compliance burdens. The analysis also indicates that the proposals do not conflict or overlap with existing requirements but rather tailor them for specific purposes.

As more fully discussed in the analysis and noted in the *Cost-Benefit Analysis* section of this release, the Commission has determined not to amend Regulation S–B to incorporate an item similar to proposed Item 305 of Regulation S–K. The Commission, therefore, has reduced the impact of the proposed amendments on small business issuers.

Request for Comment

Written comments are encouraged with respect to any aspect of the Initial Regulatory Flexibility Analysis. Such comments will be considered in preparation of the Final Regulatory Flexibility Analysis if the proposed amendments are adopted. A copy of the Initial Regulatory Flexibility Analysis may be obtained by contacting Robert E. Burns, Chief Counsel, Office of the Chief Accountant, at (202) 942–4400, Securities and Exchange Commission, 450 Fifth Street, NW., Mail Stop 11–3, Washington, DC 20549.

List of Subjects in 17 CFR Parts 210, 228, 229, 239, 240, and 249

Accounting, Reporting and recordkeeping requirements, Securities.

Text of Proposed Amendments

In accordance with the foregoing, Title 17, Chapter II of the Code of Federal Regulations is proposed to be amended as follows:

PART 210—FORM AND CONTENT OF AND REQUIREMENTS FOR FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, INVESTMENT COMPANY ACT OF 1940, AND ENERGY POLICY AND CONSERVATION ACT OF 1975

1. The authority citation for Part 210 continues to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77aa(25), 77aa(26), 78*l*, 78m, 78n, 78o(d), 78w(a), 78*ll*(d), 79e(b), 79j(a), 79n, 79t(a), 80a–8, 80a–20, 80a–29, 80a–30, 80a–37a, unless otherwise noted.

2. By amending § 210.4–08 by adding paragraph (n) to read as follows:

§ 210.4–08 General notes to financial statements.

* * * * *

(n) *Accounting policies for certain derivative instruments.* In connection with the accounting policies disclosures required by generally accepted accounting principles, identify and describe all accounting principles and the methods of applying those principles that affect the recognition and measurement of derivative financial instruments and derivative commodity instruments, as defined in the instructions to this paragraph, unless the registrant's derivatives activities are not material. Materiality of derivative activities shall be measured by the fair values of derivative financial instrument and derivative commodity instruments at the end of each reporting period and the fair value of those instruments during each reporting period. This description shall include:

(1) A description of each method used to account for derivative financial instruments and derivative commodity instruments;

(2) The types of derivative financial instruments and derivative commodity instruments accounted for under each method;

(3) The criteria required to be met for each accounting method used (*e.g.*, the manner in which the type of risk reduction, correlation, designation, and/or effectiveness tests are applied);

(4) The accounting method used if the specified criteria are not met;

(5) The accounting for terminations of derivatives designated as hedges or used to affect directly or indirectly the terms, fair values, or cash flows of a designated item;

(6) The accounting for derivatives if the designated item matures, or is sold, extinguished, terminated, or, if related to an anticipated transaction, is no longer likely to occur; and

(7) Where and when derivative financial instruments and derivative commodity instruments and their related gains and losses are reported in the statements of financial position, cash flows, and results of operations.

Instructions to Paragraph 4–08(n). 1. In preparing the accounting policies disclosures under this paragraph 4–08(n), registrants should include those derivative financial instruments and derivative commodity instruments that are held during, or outstanding at the end of, each reporting period.

2. For purposes of this paragraph 4–08(n), derivative financial instruments and derivative commodity instruments are defined as follows:

(i) Derivative financial instruments have the same meaning as defined by generally accepted accounting principles (*see, e.g.*, Financial Accounting Standards Board (''FASB''), *Statement of Financial Accounting Standards No. 119, ''Disclosure about Derivative Financial Instruments and Fair Value of Financial Instruments,''* paragraphs 5–7, (October 1994) (''FAS 119'')), and includes futures, forwards, swaps, options, and other financial instruments with similar characteristics.

(ii) Derivative commodity instruments include, to the extent such instruments are not derivative financial instruments, commodity futures, commodity forwards, commodity swaps, commodity options, and other commodity instruments with similar characteristics that are reasonably possible to be settled in cash or with another financial instrument. For purposes of this paragraph, the term ''reasonably possible'' has the same meaning as defined by generally accepted accounting principles (*see, e.g.*, FASB, *Statement of Financial Accounting Standards No. 5 ''Accounting for Contingencies,'' paragraph 3 (March 1975)).*

3. For purposes of these instructions, ''anticipated transactions'' means transactions (other than transactions involving existing assets or liabilities or transactions necessitated by existing firm commitments) an enterprise expects, but is not obligated, to carry out in the normal course of business (*see, e.g.*, FASB, *Statement of Financial Accounting Standards No. 80, ''Accounting for Futures Contracts,''* paragraph 9, (August 1984)).

4. For purposes of paragraphs 4–08(n)(2), 4–08(n)(3), 4–08(n)(4), and 4–08(n)(7) registrants should distinguish derivative financial instruments and derivative commodity instruments entered into for trading purposes from those instruments that are entered into for purposes other than trading. For purposes of this paragraph, ''trading purposes'' has the same meaning as defined by generally accepted accounting principles (*see, e.g.*, FASB, *Statement of Accounting Standards No. 119, ''Disclosure about Derivative Financial Instruments and Fair Value of Financial Instruments,''* paragraph 9a, (October 1994)).

PART 228—INTEGRATED DISCLOSURE SYSTEM FOR SMALL BUSINESS ISSUERS

3. The authority citation for Part 228 continues to read as follows:

Authority: 15 U.S.C. 77e, 77f, 77g, 77h, 77j, 77k, 77s, 77aa(25), 77aa(26), 77ddd, 77eee, 77ggg, 77hhh, 77jjj, 77nnn, 77sss, 78*l*, 78m, 78n, 78o, 78w, 78*ll*, 80a–8, 80a–29, 80a–30, 80a–37, 80b–11, unless otherwise noted.

4. By amending the *NOTES* to § 228.310 by revising the first sentence of note 2 to read as follows:

§ 228.310 (Item 310) Financial Statements.

Notes—1. * * *

2. Regulation S–X [17 CFR 210.1–210.12] Form and Content of and Requirements for Financial Statements shall not apply to the preparation of such financial statements, except that the report and qualifications of the independent accountant shall comply with the requirements of article 2 of regulation S–X [17 CFR 210.2], articles

3–19 and 3–20 [17 CFR 210.3–19 and 210.3–20] shall apply to financial statements of foreign private issuers, the description of accounting policies shall comply with article 4–08(n) of regulation S–X [17 CFR 210.4–08(n)], and small business issuers engaged in oil and gas producing activities shall follow the financial accounting and reporting standards specified in article 4–10 of Regulation S–X [17 CFR 210.4–10] with respect to such activities.

* * *

* * * * *

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934 AND ENERGY POLICY AND CONSERVATION ACT OF 1975—REGULATION S–K

5. The authority citation for part 229 continues to read in part as follows:

Authority: 15 U.S.C. 77e, 77f, 77g, 77h, 77j, 77k, 77s, 77aa(25), 77aa(26), 77ddd, 77eee, 77ggg, 77hhh, 77iii, 77jjj, 77nnn, 77sss, 78c, 78i, 78j, 78*l*, 78m, 78n, 78o, 78w, 78*ll*(d), 79e, 79n, 79t, 80a–8, 80a–29, 80a–30, 80a–37, 80b–11, unless otherwise noted.

* * * * *

6. By adding § 229.305 (Item 305) to read as follows:

§ 229.305 (Item 305) Quantitative and qualitative disclosures about market risk.

(a) *Quantitative information about market risk.* (1) To the extent material, registrants shall provide quantitative disclosures about market risk, as of the end of the latest fiscal year. Such disclosures should be provided using any one of the following three disclosure alternatives at the election of the registrant:

(i)(A)(*1*) Tabular presentation of terms and information related to market risk sensitive instruments; such information (*e.g.*, expected cash flows by maturity dates) should be categorized according to risk exposure category (*e.g.*, interest rate risk, foreign currency exchange rate risk, commodity price risk, and other similar market risks, such as equity price risk), and within the foreign currency exchange rate risk category, by functional currency (*e.g.*, U.S. dollar, Japanese yen).

(2) Within each of these risk exposure categories, instruments should be grouped based on common characteristics. At a minimum, instruments should be distinguished by the following characteristics:

(*i*) Fixed rate or variable rate assets or liabilities;

(*ii*) Long or short forwards or futures;

(*iii*) Written or purchased put or call options;

(*iv*) Receive fixed or receive variable interest rate swaps; and

(*v*) The currency in which the instruments' cash flows are denominated.

(*3*) For each instrument in the table, expected cash flow information should be presented separately for each of the next five years with the remaining expected cash flows presented as an aggregate amount. Derivatives used to manage risks inherent in anticipated transactions also should be disclosed separately; and

(*B*) A description of assumptions necessary to an understanding of the disclosures required under paragraph (a)(1)(i) (A) of this item 305 (see the appendix to this Item for a suggested tabular format for presentation of this information), or

(ii)(A) Sensitivity analyses that express the hypothetical loss in future earnings, fair values, or cash flows of market risk sensitive instruments resulting from at least one selected hypothetical change in interest rates, currency exchange rates, commodity prices, and similar market rates or prices over a selected time period. The magnitude of each selected hypothetical change in rates or prices may differ across risk exposures. Separate sensitivity analysis disclosures should be made for each category of risk exposure, *i.e.*, interest rate risk, foreign currency exchange rate risk, commodity price risk, and other similar market risks, such as equity price risk; and

(B) A description of the model assumptions and parameters necessary to an understanding of the disclosures required under paragraph (a)(1)(ii) (A) of this item 305; or

(iii)(A) Value at risk disclosures that express the potential loss in fair values, earnings, or cash flows from market movements (*e.g.*, changes in interest rates, foreign currency exchange rates, commodity prices, and other similar market rates or prices) over a selected time period with a selected likelihood of occurrence; value at risk disclosures should be made on an aggregate basis for all market risk sensitive instruments and for each category of market risk exposure, such as interest rate risk, foreign currency exchange rate risk, commodity price risk, and other similar market risks, such as equity price risk;

(B) For each risk exposure category either:

(*1*) The average or range in the value at risk numbers for the reported period;

(*2*) The average or range in actual changes in fair values, earnings, or cash flows of instruments occurring during the reporting period; or

(*3*) The percentage of time the actual changes in fair values, earnings, or cash flows of market risk sensitive instruments exceeded the reported value at risk amounts during the current reporting period; (The information in this paragraph (a)(1)(iii)(B) is not required for [the first fiscal year end for which this section is effective]), and

(C) A description of the model assumptions and parameters necessary to an understanding of the disclosures required under paragraphs (a)(1)(iii) (A) and (B) of this item 305.

(2) Registrants shall discuss material limitations that may cause the information required under paragraph (a)(1) of this item 305 not to reflect the overall market risk of the entity. This discussion shall include descriptions of:

(i) Each limitation; and

(ii) If applicable, the instruments' features that are not reflected fully within the selected quantitative market risk disclosure alternative.

(3) Registrants shall present summarized information for the preceding fiscal year. Registrants also shall discuss the reasons for material changes in quantitative information about market risk when compared to the information reported in the previous period. Information required by this paragraph (a)(3) of item 305, however, is not required if disclosure is not required pursuant to paragraph (a)(1) of this item 305 for the current fiscal year. Information required by this paragraph (a)(3) of item 305 is not required [for the first fiscal year end in which item 305 is effective].

(4) Registrants may change methods of presenting quantitative information about market risk (*e.g.*, changing from tabular presentation to value at risk). However, if such a change is made the registrants shall:

(i) Explain the reasons for the change; and

(ii) Provide summarized comparable information, under the new disclosure method, for the year preceding the current year.

Instructions to Paragraph 305(a).

1. In preparing the disclosures under paragraph 305(a), registrants are required to include derivative financial instruments, other financial instruments, and derivative commodity instruments, as specified in the General Instructions to Paragraphs 305(a) and 305(b).

2. In preparing disclosures under paragraph 305(a), registrants should distinguish derivative financial instruments, other financial instruments, and derivative commodity instruments entered into for trading purposes from those instruments that are entered into for purposes other than trading.

3. In preparing disclosures under paragraph 305(a), registrants may include

other market risk sensitive instruments, positions, and transactions that are not addressed in instruction 1. to paragraph 305(a). Such instruments, positions, and transactions might include commodity positions, derivative commodity instruments that are not reasonably possible to be settled in cash or with another financial instrument, cash flows from anticipated transactions, and operating cash flows from non-financial and non-commodity instruments (*e.g.*, cash flows generated by manufacturing activities). Registrants choosing to include voluntarily these instruments, positions, and cash flows for purposes of paragraphs 305(a)1(ii) and 305(a)1(iii) are required to state that they have included such instruments, positions, and cash flows.

4. Under paragraph 305(a)(1)(i):

(A) The examples of terms and information relating to market risk sensitive instruments that should be disclosed include, but are not limited to, the instruments' fair values, expected principal or transaction cash flows, weighted average effective rates or prices, and other relevant market risk related information;

(B) Functional currency means functional currency as defined by generally accepted accounting principles (*see, e.g.*, FASB, *Statement of Financial Accounting Standards No. 52, ''Foreign Currency Translation''*, (''FAS 52'') Appendix E (December 1981);

(C) Model assumptions that should be described include, but are not limited to, specification of the differing numbers reported in the table for various categories of instruments (*e.g.*, principal cash flows for debt, notional amounts for swaps, and contract amounts for options and futures) and key prepayment and/or reinvestment assumptions relating to the timing of reported cash flow amounts; and

(D) Market risk sensitive instruments that are exposed to rate or price changes in more than one market risk exposure category should be presented within the tabular information under each of those risk exposure categories.

5. Under paragraph 305(a)(1)(ii), model assumptions and parameters that should be described include, but are not limited to, how loss is defined by the model (*e.g.*, loss in earnings, fair values, or cash flows), a general description of the modeling technique (*e.g.*, change in net present values arising from parallel shifts in market rates or prices and how optionality is addressed by the model), the types of instruments covered by the model (*e.g.*, derivative financial instruments, other financial instruments, derivative commodity instruments, and whether other instruments are included voluntarily, such as certain commodity instruments and positions, cash flows from anticipated transactions, and operating cash flows from non-financial and non-commodity instruments), and other relevant information on the model's parameters, (*e.g.*, the magnitudes of parallel shifts in market rates or prices used, the method by which discount rates are determined, and key prepayment and/or reinvestment assumptions).

6. Under paragraph 305(a)(1)(iii), model assumptions and parameters that should be described include, but are not limited to, how loss is defined by the model (*e.g.*, loss in earnings, fair values, or cash flows), type of model used (*e.g.*, variance/covariance, historical simulation, Monte Carlo simulation, and how optionality is addressed by the model), the types of instruments covered by the model (*e.g.*, derivative financial instruments, other financial instruments, derivative commodity instruments, and whether other instruments are included voluntarily, such as certain commodity instruments and positions, cash flows from anticipated transactions, and operating cash flows from non-financial and non-commodity instruments), and other relevant information on model parameters, (*e.g.*, holding period, confidence interval, and the method used for aggregating value at risk amounts across market risk exposure categories, such as by assuming perfect positive correlation, independence, or actual observed correlation).

7. Under paragraph 305(a)(2), limitations that should be considered include, but are not limited to:

(A) The exclusion of certain market risk sensitive instruments, positions, and transactions from the disclosures required under paragraph 305(a)(1) (*e.g.*, derivative commodity instruments not reasonably possible to be settled in cash or with another financial instrument, commodity positions, cash flows from anticipated transactions, and operating cash flows from non-financial and non-commodity instruments, such as cash flows from manufacturing activities). Failure to include such instruments, positions, and transactions in preparing the disclosures under paragraph 305(a)(1) may be a limitation because the resulting information may not fully reflect the overall market risk of a registrant; and

(B) The ability of disclosures required under paragraph 305(a)(1) to reflect fully the market risk that may be inherent in instruments with leverage, option, or prepayment features (*e.g.*, structured notes, collateralized mortgage obligations, leveraged swaps, and swaps with embedded written options).

(b) *Qualitative information about market risk.* To the extent material, describe:

(1) The registrant's primary market risk exposures;

(2) How those exposures are managed (*e.g.*, a description of the objectives, general strategies, and instruments, if any, used to manage those exposures); and

(3) Changes in either the registrant's primary market risk exposures or how those exposures are managed when compared to what was in effect during the most recent reporting period and what is known or expected to be in effect in future reporting periods.

Instructions to Paragraph 305(b).

1. The disclosures required by this paragraph relate to the market risk exposures inherent in derivative financial instruments, other financial instruments, and derivative commodity instruments, as defined in the General Instructions to Paragraphs 305(a) and 305(b).

2. In preparing disclosures under paragraph 305(b), the qualitative information about market risk should be presented separately for derivative financial instruments, other financial instruments, and derivative commodity instruments that are entered into for trading purposes and those that are entered into for purposes other than trading. In addition, qualitative information about market risk should be presented separately for those instruments used to manage risks inherent in anticipated transactions.

3. Primary market risk exposures, for the purposes of this paragraph, mean:

(A) The following categories of market risk: interest rate risk, foreign currency exchange rate risk, commodity price risk, and other similar market rate or price risks (*e.g.*, equity prices); and

(B) Within each of these categories, the particular markets that present the primary risk of loss to the registrant. For example, if a registrant has a material exposure to foreign currency exchange rate risk and, within this category of market risk, is most vulnerable to changes in dollar/yen, dollar/pound, and dollar/peso exchange rates, the registrant would disclose these exposures. Similarly, if a registrant has a material exposure to interest rate risk and, within this category of market risk, is most vulnerable to changes in short-term U.S. prime interest rates, it would disclose this exposure.

4. For purposes of disclosure under paragraph (b) of this item 305, registrants should describe primary market risk exposures that exist at the end of the current reporting period, and how those exposures are managed.

General Instructions to Paragraphs 305(a) and 305(b).

1. The disclosure called for by paragraphs 305(a) and 305(b) is intended to clarify the registrant's exposure to market risks associated with activities in derivative financial instruments, other financial instruments, and derivative commodity instruments.

2. For purposes of paragraphs 305(a) and 305(b), derivative financial instruments, other financial instruments, and derivative commodity instruments (referred collectively as ''market rate sensitive instruments'' or ''instruments'') are defined as follows:

(A) Derivative financial instruments has the same meaning as defined by generally accepted accounting principles (*see, e.g.*, FASB, *Statement of Financial Accounting Standards No. 119, ''Disclosure about Derivative Financial Instruments and Fair Value of Financial Instruments,''* paragraphs 5–7, (October 1994)), and includes futures, forwards, swaps, options, and other financial instruments with similar characteristics;

(B) Other financial instruments means all financial instruments as defined by generally accepted accounting principles (*see, e.g.*, FASB, *Statement of Financial Accounting Standards No. 107, ''Disclosures about Fair Value of Financial Instruments,''* paragraph 3, (December 1991)), except for derivative financial instruments, as defined above;

(C) Other financial instruments include, but are not limited to, trade accounts receivable, investments, loans, structured notes, mortgage-backed securities, trade accounts payable, indexed debt instruments, interest-only and principal-only obligations, deposits, and other debt obligations. However, for purposes of this release, trade accounts receivable and trade accounts payable should not be considered other financial instruments when their carrying amounts approximate fair value; and

(D) Derivative commodity instruments include, to the extent such instruments are not derivative financial instruments, commodity futures, commodity forwards, commodity swaps, commodity options, and other commodity instruments with similar characteristics that are reasonably possible to be settled in cash or with another financial instrument. For purposes of paragraphs 305(a) and 305(b) and these general instructions, the term ''reasonably possible'' has the same meaning as defined by generally accepted accounting principles (*see, e.g.,* FASB, *Statement of Financial Accounting Standards No. 5, ''Accounting for Contingencies,''* paragraph 3 (March 1975)).

3. For purposes of paragraphs 305(a) and 305(b), disclosure is not required for:

(A) Commodity positions;

(B) Derivative commodity instruments that are not reasonably possible to be settled in cash or with another financial instrument;

(C) Cash flows from anticipated transactions; and/or

(D) Operating cash flows from non-financial and non-commodity instruments.

4. (A) For purposes of making a materiality assessment under paragraphs 305(a) and 305(b), registrants should consider both:

(i) The materiality of the fair values of derivative financial instruments, other financial instruments, and derivative commodity instruments outstanding at the end of the current reporting period; and

(ii) The materiality of the potential loss in future earnings, fair values, or cash flows from reasonably possible market movements.

(B) If either (i) or (ii) of instruction 4.(A) is material, then the disclosures under paragraphs 305(a) and 305(b) are required.

(C) In determining the materiality of the fair values of market risk sensitive instruments outstanding at the end of the current reporting period, registrants generally should not net fair values, except to the extent allowed under generally accepted accounting principles (*see, e.g., FASB Interpretation No. 39, ''Offsetting of Amounts Related to Certain Contracts''* (March 1992)). For example, under this instruction, the fair value of assets generally should not be netted with the fair value of liabilities. In determining the materiality of the potential loss in future earnings or fair values from reasonably possible market movements, registrants should consider both the magnitude of past market movements, as well as expectations about the magnitude of future market movements. In addition, in making the determination under this instruction about the materiality of the potential loss in future earnings, fair values, or cash flows, registrants should consider, among other things, potential losses that may arise from leverage, option, and/or multiplier features.

5. For purposes of presenting quantitative and qualitative information about market risk, registrants generally should provide the required information in one location. However, alternative presentation, such as inclusion of all or part of the information in the footnotes to the financial statements or in Management's Discussion and Analysis, may be used at the discretion of the registrant.

6. For purposes of the instructions to paragraphs 305(a) and 305(b), ''trading purposes'' has the same meaning as defined by generally accepted accounting principles (*see, e.g.,* FASB, *Statement of Financial Accounting Standards No. 119, ''Disclosure About Derivative Financial Instruments and Fair Value of Financial Instruments,''* paragraph 9a (October 1994)). In addition, ''anticipated transactions'' means transactions (other than transactions involving existing assets or liabilities or transactions necessitated by existing firm commitments) an enterprise expects, but is not obligated, to carry out in the normal course of business (*e.g.,* FASB, *Statement of Financial Accounting Standards No. 80, ''Accounting for Futures Contracts,''* paragraph 9 (August 1984)).

Appendix to Item 305—Tabular Disclosures

The tables set forth below are illustrative of the format that might be used when a registrant elects to present the information required by paragraph (a)(1)(i)(A) of Item 305 regarding terms and information about derivative financial instruments, other financial instruments, and derivative commodity instruments. These examples are for illustrative purposes only. Registrants are not required to display the information in the specific manner illustrated below. Alternative methods of display are permissible as long as the disclosure requirements of the section are satisfied. Furthermore, these examples were designed primarily to illustrate possible formats for presentation of the information required by the proposed section and do not purport to illustrate the broad range of derivative financial instruments, other financial instruments, and derivative commodity instruments utilized by registrants.

Interest Rate Sensitivity

The table below provides information about the Company's derivative financial instruments and other financial instruments that are sensitive to changes in interest rates, including interest rate swaps and debt obligations. For debt obligations, the table presents principal cash flows and related weighted average interest rates by expected maturity dates. Weighted average variable rates are based on implied forward rates in the yield curve at the reporting date. For interest rate swaps, the table presents notional amounts and weighted average interest rates by expected (contractual) maturity dates. Notional amounts are used to calculate the contractual payments to be exchanged under the contract. The information is presented in U.S. dollar equivalents, which is the Company's reporting currency. The instrument's actual cash flows are denominated in both U.S. dollar ($U.S.) and German deutschmarks (DMs), as indicated in parentheses.

[Dollar amounts in millions]

December 31, 19×1	Expected maturity date						Total	Fair value
	19×2	19×3	19×4	19×5	19×6	There-after		
Liabilities:								
Long-term Debt:								
Fixed Rate ($US)	$XXX	$XXX	$XXX	$XXX	$XXX	$XXX	$XXX	$XXX
Average interest rate	X.X%	X.X%	X.X%	X.X%	X.X%	X.X%	X.X%	
Fixed Rate (DMs)	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX
Average interest rate	X.X%	X.X%	X.X%	X.X%	X.X%	X.X%	X.X%	
Variable Rate ($US)	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX
Average interest rate	X.X%	X.X%	X.X%	X.X%	X.X%	X.X%	X.X%	

[Dollar amounts in millions]

Interest Rate Derivatives	Expected maturity date						Total	Fair value
	19×2	19×3	19×4	19×5	19×6	There-after		
Interest Rate Swaps:								
Variable to Fixed ($US)	$XXX	$XXX	$XXX	$XXX	$XXX	$XXX	$XXX	$XXX
Average pay rate	X.X%	X.X%	X.X%	X.X%	X.X%	X.X%	X.X%	
Average receive rate	X.X%	X.X%	X.X%	X.X%	X.X%	X.X%	X.X%	
Fixed to Variable ($US)	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX
Average pay rate	X.X%	X.X%	X.X%	X.X%	X.X%	X.X%	X.X%	
Average receive rate	X.X%	X.X%	X.X%	X.X%	X.X%	X.X%	X.X%	

Exchange Rate Sensitivity

The table below provides information about the Company's derivative financial instruments, other financial instruments, and firmly committed sales transactions by functional currency and presents such information in U.S. dollar equivalents.[1] The table summarizes information on instruments and transactions that are sensitive to foreign currency exchange rates, including foreign currency forward exchange agreements, deutschmark (DM)-denominated debt obligations, and firmly committed DM sales transactions. For debt obligations, the table presents principal cash flows and related weighted average interest rates by expected maturity dates. For firmly committed DM-sales transactions, sales amounts are presented by the expected transaction date, which are not expected to exceed two years. For foreign currency forward exchange agreements, the table presents the notional amounts and weighted average exchange rates by expected (contractual) maturity dates. These notional amounts generally are used to calculate the contractual payments to be exchanged under the contract.

December 31, 19×1	Expected maturity date						Total	Fair value
	19×2	19×3	19×4	19×5	19×6	There-after		
	(US$ Equivalent in Millions)							
On-Balance Sheet Financial Instruments:								
$US Functional Currency[2] Liabilities								
Long-Term Debt (DM)	$XXX	$XXX	$XXX	$XXX	$XXX	$XXX	$XXX	$XXX
Average U.S. dollar/DM Exchange Rate	X.X	X.X	X.X	X.X	X.X	X.X	X.X	

	Expected maturity or transaction date						Total	Fair value
	19×2	19×3	19×4	19×5	19×6	There-after		
	(US$ Equivalent in millions)							
Anticipated Transactions and Related Derivatives[3]								
$US Functional Currency:								
Firmly committed transactions:								
Sales Contracts (DM)	$XXX	$XXX	....	....	....	....	$XXX	$XXX
Forward Exchange Agreements (Receive $US/Pay DM)								
Contract Amount	XXX	XXX	....	....	....	....	XXX	XXX
Average Exchange Rate	X.X	X.X	....	....	....	....	X.X	

[2] Similar tabular information would be provided for other functional currencies.
[3] Pursuant to Instruction 3 to proposed Item 305(a) of Regulation S–K, registrants may include cash flows from anticipated transactions and operating cash flows resulting from non-financial and non-commodity instruments.

Commodity Price Sensitivity

The table below provides information about the Company's corn inventory and futures contracts that are sensitive to changes in commodity prices, specifically corn prices. For inventory, the table presents the carrying amount and fair value at December 31, 19x1. For the futures contracts the table presents the notional amounts in bushels, the weighted average contract prices, and the total dollar contract amount by expected maturity dates, the latest of which occurs one year from the reporting date. Contract amounts are used to calculate the contractual payments and quantity of corn to be exchanged under the futures contracts.

[1] The information is presented in U.S. dollars because that is the registrant's reporting currency.

December 31, 19×1	Carrying amount	Fair value
	(In millions)	
On Balance Sheet Commodity Position and Related Derivatives:		
Corn Inventory	$XXX	$XXX [4]

	Expected maturity 1992	Fair value
Related Derivatives:		
Futures Contracts (Short):		
Contract Volumes (100,000 bushels)	XXX	
Weighted Average Price (Per 100,000 bushels)	$X.XX	
Contract Amount ($US in millions)	$XXX	$XXX

[4] Pursuant to Instruction 3 to proposed Item 305 of Regulation S–K, registrants may include information on commodity positions, such as corn inventory.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

7. The authority citation for Part 239 continues to read, in part, as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77sss, 78c, 78*l*, 78m, 78n, 78o(d), 78w(a), 78*ll*(d), 79e, 79f, 79g, 79j, 79*l*, 79m, 79n, 79q, 79t, 80a–8, 80a–29, 80a–30 and 80a–37, unless otherwise noted.

* * * * *

8. By amending Form S–1 (referenced in 239.11) by redesignating items 11(j) through 11(m) as items 11(k) through 11(n) and adding item 11(j) to read as follows:

Note—The text of Form S–1 does not, and this amendment will not, appear in the Code of Federal Regulations.

Form S–1

Registration Statement Under the Securities Act of 1933

* * * * *

Item 11. Information With Respect to the Registrant

* * * * *

(j) Information required by Item 305 of Regulation S–K (§ 229.305 of this chapter), quantitative and qualitative disclosures about market risk.

* * * * *

9. By amending Form S–2 (referenced in § 239.12) by adding paragraph (9) to Item 11(b), removing ‘‘and’’ at the end of Item 12(a)(3)(vii), removing the period at the end of Item 12(a)(3)(viii) and in its place adding ‘‘; and’’, and adding paragraph (ix) to Item 12(a)(3) to read as follows:

Note—The text of Form S–2 does not, and this amendment will not, appear in the Code of Federal Regulations.

Form S–2

Registration Statement Under the Securities Act of 1933

* * * * *

Item 11. Information With Respect to the Registrant

(a) * * *

(b) * * *

(9) Furnish quantitative and qualitative disclosures about market risk required by Item 305 of Regulation S–K (§ 229.305 of this chapter).

* * * * *

Item 12. Incorporation of Certain Information by Reference.

(a) * * *

(3) * * *

(ix) quantitative and qualitative disclosures about market risk as required by Item 305 of Regulation S–K (§ 229.305 of this chapter).

* * * * *

10. By amending Form S–4 (referenced in § 239.25) by removing ‘‘and’’ at the end of Item 12(b)(3)(v) and the period at the end of Item 12(b)(3)(vi) and in its place adding ‘‘; and’’, adding paragraph (vii) to Item 12(b)(3), removing ‘‘and’’ at the end of Item 13(a)(3)(v) and the period at the end of Item 13(a)(3)(vi) and in its place adding ‘‘; and’’, adding paragraph (vii) to Item 13(a)(3), removing ‘‘and’’ at the end of Item 14(h) and the period at the end of Item 14(i) and in its place adding ‘‘; and’’, adding paragraph (j) to Item 14, and adding paragraph (10) to Item 17(b) to read as follows:

Note—The text of Form S–4 does not, and this amendment will not, appear in the Code of Federal Regulations.

Form S–4

Registration Statement Under the Securities Act of 1933

* * * * *

Item 12. Information With Respect to S–2 or S–3 Registrants

* * * * *

(b) * * *

(3) * * *

(vii) Item 305 of Regulation S–K (§ 229.305 of this chapter), quantitative and qualitative disclosures about market risk.

* * * * *

Item 13. Incorporation of Certain Information by Reference

* * * * *

(a) * * *

(3) * * *

(vii) Item 305 of Regulation S–K (§ 229.305 of this chapter) quantitative and qualitative disclosures about market risk.

* * * * *

Item 14. Information With Respect to Registrants Other Than S–3 or S–2 Registrants

* * * * *

(j) Item 305 of Regulation S–K (§ 229.305 of this chapter), quantitative and qualitative disclosures about market risk.

* * * * *

Item 17. Information With Respect to Companies Other Than S–3 or S–2 Companies

* * * * *

(b) * * *

(10) Item 305 of Regulation S–K (§ 229.305 of this chapter), quantitative and qualitative disclosures about market risk.

* * * * *

11. By amending Form S–11 (referenced in § 239.18) to redesignate Items 30 through 36 as Items 31 through 37 and to add Item 30 to Part I to read as follows:

Note—The text of Form S–11 does not, and this amendment will not, appear in the Code of Federal Regulations.

Form S–11

Registration Statement Under the Securities Act of 1933

* * * * *

Item 30. Quantitative and Qualitative Disclosures About Market Risk

Furnish the information required by Item 305 of Regulation S–K (§ 229.305 of this chapter).

* * * * *

12. By amending Form F–4 (referenced in § 239.34) to redesignate Item 12(b)(3)(vi) as Item 12(b)(3)(vi)(A), add new paragraph (B) to Item 12(b)(3)(vi), redesignate Item 14(g) as Item 14(g)(1), add new Item 14(g)(2), redesignate Item 17(b)(4) as Item 17(b)(4)(i), and add new Item 17(b)(4)(ii) to read as follows:

Note—The text of Form F–4 does not, and this amendment will not, appear in the Code of Federal Regulations.

Form F–4

Registration Statement Under the Securities Act of 1933

* * * * *

Item 12. Information With Respect to F–2 or F–3 Registrants

* * * * *

(b) * * *

(3) * * *

(vi)(A) * * *

(B) Item 9A of Form 20–F, quantitative and qualitative disclosures of market risk.

* * * * *

Item 14. Information With Respect to Foreign Registrants Other Than F–2 or F–3 Registrants

* * * * *

(g)(1) * * *

(g)(2) Item 9A of Form 20–F, quantitative and qualitative disclosures of market risk.

* * * * *

Item 17. Information With Respect to Foreign Companies Other Than F–2 or F–3 Companies

* * * * *

(b)(4)(i) * * *

(b)(4)(ii) Item 9A of Form 20–F, quantitative and qualitative disclosures of market risk.

* * * * *

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

13. The authority citation for Part 240 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78i, 78j, 78*l*, 78m, 78n, 78o, 78p, 78q, 78s, 78w, 78x, 78*ll*(d), 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4 and 80b–11, unless otherwise noted.

* * * * *

14. By amending § 240.14a–3 by adding paragraph (b)(5)(iii) to read as follows:

§ 240.14a–3 Information to be furnished security holders.

* * * * *

(b) * * *

(5) * * *

(iii) The report shall contain the quantitative and qualitative disclosures about market risk required by Item 305 of Regulation S–K (§ 229.305 of this chapter).

* * * * *

15. By amending § 240.14a–101 to remove the word ''and'' at the end of Item 13(a)(4), redesignate Item 13(a)(5) as Item 13(a)(6), add Item 13(a)(5), add Instruction 6 to Item 13, remove ''and'' at the end of Item 14(b)(2)(i)(B)*(3)(vi)* and the period at the end of Item 14(b)(2)(i)(B)*(3)(vii)* and in its place add ''; and'', add paragraph *(viii)* to Item 14(b)(2)(i)(B)*(3)*, remove ''and'' at the end of Item 14(b)(2)(ii)(A)*(3)(v)* and the period at the end of Item 14(b)(2)(ii)(A)*(3)(vi)* and in its place add ''; and'', add paragraph *(vii)* to Item 14(b)(2)(ii)(A)*(3)*, remove ''and'' at the end of Item 14(b)(3)(i)(H) and the period at the end of Item 14(b)(3)(i)(I) and in its place add ''; and'', add paragraph (J) to Item 14(b)(3)(i), and add Instructions 8, 9, and 10 to Item 14 to read as follows:

§ 240.14a–101 Schedule 14A. Information required in proxy statement.

* * * * *

Item 13. Financial and Other Information

(a) *Information required.* * * *

(5) Item 305 of Regulation S–K, quantitative and qualitative disclosures about market risk; and

* * * * *

Instructions to Item 13.

* * * * *

6. A registered investment company need not comply with items (a)(2), (a)(3), and (a)(5) of this Item 13.

* * * * *

Item 14. Mergers, Consolidations, Acquisitions and Similar Matters

* * * * *

(*b*) *Information about the registrant and the other person*.

* * * * *

(*2*) *Information with respect to S–2 or S–3 registrants*.

(*i*) *Information required to be furnished*. * * *

(B) * * *

(*3*) * * *

(*viii*) Item 305 of Regulation S–K (§ 229.305 of this chapter), quantitative and qualitative disclosures about market risk.

(ii) *Incorporation of certain information by reference*.

* * * * *

(A) * * *

(*3*) * * *

(*vii*) Item 305 of Regulation S–K, quantitative and qualitative disclosures about market risk.

* * * * *

(*3*) *Information with respect to registrants other than S–2 or S–3 registrants*.

(i) * * *

(A) * * *

(J) Item 305 of Regulation S–K, quantitative and qualitative disclosures about market risk.

* * * * *

Instructions to Item 14.

* * * * *

8. A registered management company need not comply with Items (i), (iii), (iv), (v), (vi), and (viii) of paragraph (b)(2)(i)(B)(3) of this Item 14.

9. A registered management company need not comply with Items (i), (ii), (iii), (iv), (v), and (vii) of paragraph (b)(2)(ii)(A)(3) of this Item 14.

10. A registered management company need not comply with items (A), (B), (D), (F), (G), (H), and (J) of paragraph (b)(3)(i) of this Item 14.

* * * * *

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

16. The authority for Part 249 continues to read, in part, as follows:

Authority: 15 U.S.C. 78a, *et seq.*, unless otherwise noted.

17. By amending Form 10 (referenced in § 249.210) by revising Item 2 to read as follows:

Note—The text of Form 10 does not, and this amendment will not, appear in the Code of Federal Regulations.

Form 10

General Form for Registration of Securities

* * * * *

Item 2. Financial Information

Furnish the information required by Items 301, 303, and 305 of Regulation S–K (§§ 229.301, 229.303, and 229.305 of this chapter).

* * * * *

18. By amending Form 20–F (referenced in § 249.220f) by adding Item 9A to be inserted after Item 9 and before Item 10 in Part I to read as follows:

Note—The text of Form 20–F does not, and this amendment will not, appear in the Code of Federal Regulations.

Form 20–F

Registration Statement Pursuant to Section 12(b) or (g) of The Securities Exchange Act of 1934 or Annual Report Pursuant to Section 13 or 15(d) of The Securities Exchange Act of 1934 or Transaction Report Pursuant to Section 13 or 15(d) of The Securities Exchange Act of 1934

* * * * *

Part I

* * * * *

Item 9A. Quantitative and Qualitative Disclosures About Market Risk.

(a) *Quantitative information about market risk*. (1) To the extent material, registrants shall provide quantitative disclosures about market risk, as of the end of the latest fiscal year. Such disclosures should be provided using any one of the following three disclosure alternatives at the election of the registrant:

(i)(A)(*1*) Tabular presentation of terms and information related to market risk sensitive instruments; such information (*e.g.*, expected cash flows by maturity dates) should be categorized according to risk exposure category (*e.g.*, interest rate risk, foreign currency exchange rate risk, commodity price risk, and other similar market risks, such as equity price risk), and within the foreign currency exchange rate risk category, by functional currency (*e.g.*, U.S. dollar, Japanese yen).

(*2*) Within each of these risk exposure categories, instruments should be grouped based on common characteristics. At a minimum, instruments should be distinguished by the following characteristics:

(*i*) Fixed rate or variable rate assets or liabilities;

(*ii*) Long or short forwards or futures;

(*iii*) Written or purchased put or call options;

(*iv*) Receive fixed or receive variable interest rate swaps; and

(*v*) The currency in which the instruments' cash flows are denominated.

(*3*) For each instrument in the table, expected cash flow information should be presented separately for each of the next five years with the remaining expected cash flows presented as an aggregate amount. Derivatives used to manage risks inherent in anticipated transactions also should be disclosed separately; and

(*B*) A description of assumptions necessary to an understanding of the disclosures required under subparagraph (A) of this item 9A(a)(1)(i) (see the Appendix to this Item for a suggested tabular format for presentation of this information), or

(*ii)(A*) Sensitivity analyses that express the hypothetical loss in future earnings, fair values, or cash flows of market risk sensitive instruments resulting from at least one selected hypothetical change in interest rates, currency exchange rates, commodity prices, and similar market rates or prices over a selected time period. The magnitude of each selected hypothetical change in rates or prices may differ across risk exposures. Separate sensitivity analysis disclosures should be made for each category of risk exposure, *i.e.*, interest rate risk, foreign currency exchange rate risk, commodity price risk, and other similar market risks, such as equity price risk; and

(B) A description of the model assumptions and parameters necessary to an understanding of the disclosures required under subparagraph (A) of this item 9A(a)(1)(ii); or

(iii)(A) Value at risk disclosures that express the potential loss in fair values, earnings, or cash flows from market movements (*e.g.*, changes in interest rates, foreign currency exchange rates, commodity prices, and other similar market rates or prices) over a selected time period with a selected likelihood of occurrence; value at risk disclosures should be made on an aggregate basis for all market risk sensitive instruments and for each category of market risk exposure, such as interest rate risk, foreign currency exchange rate risk, commodity price risk, and other similar market risks, such as equity price risk;

(B) For each risk exposure category either:

(*1*) The average or range in the value at risk numbers for the reported period;

(*2*) The average or range in actual changes in fair values, earnings, or cash flows of instruments occurring during the reporting period; or

(*3*) The percentage of time the actual changes in fair values, earnings, or cash flows of market risk sensitive instruments exceeded the reported value at risk amounts during the current reporting period; (The information in this subparagraph (B) is not required for the first fiscal year end for which this rule is effective) and

(C) A description of the model assumptions and parameters necessary to an understanding of the disclosures required under subparagraphs (A) and (B) of this Item 9A(a)(1)(iii).

(2) Registrants shall discuss material limitations that may cause the information required under paragraph (a)(1) of this item 9A not to reflect the overall market risk of the entity. This discussion shall include descriptions of:

(i) Each limitation; and

(ii) If applicable, the instruments' features that are not reflected fully within the selected quantitative market risk disclosure alternative.

(3) Registrants shall present summarized information for the preceding fiscal year. Registrants also shall discuss the reasons for material changes in quantitative information about market risk when compared to the information reported in the previous period. Information required by this paragraph (a)(3) of item 9A, however, is not required if disclosure is not required pursuant to paragraph (a)(1) of this item 9A for the current fiscal year. Information required by this paragraph (a)(3) of item 9A is not required for the first fiscal year end in which this item 9A is effective.

(4) Registrants may change methods of presenting quantitative information about market risk (*e.g.*, changing from tabular presentation to value at risk). However, if such a change is made the registrants shall:

(i) Explain the reasons for the change; and

(ii) Provide summarized comparable information, under the new disclosure method, for the year preceding the current year.

Instructions to Paragraph 9A(a).

1. In preparing the disclosures under paragraph 9A(a), registrants are required to include derivative financial instruments, other financial instruments, and derivative commodity instruments, as specified in the General Instructions to Paragraphs 9A(a) and 9A(b).

2. In preparing disclosures under paragraph 9A(a), registrants should distinguish derivative financial instruments, other financial instruments, and derivative commodity instruments entered into for trading purposes from those instruments that are entered into for purposes other than trading.

3. In preparing disclosures under paragraph 9A(a), registrants may include other market risk sensitive instruments, positions, and transactions that are not addressed in instruction 1. to paragraph 9A(a). Such instruments, positions, and transactions might include commodity positions, derivative commodity instruments that are not reasonably possible to be settled in cash or with another financial instrument, cash flows from anticipated transactions, and operating cash flows from non-financial and non-commodity instruments (*e.g.*, cash flows generated by manufacturing activities). Registrants choosing to include voluntarily these instruments, positions, and cash flows for purposes of paragraphs 9A(a)1(ii) and 9A(a)1(iii) are required to state that they have included such instruments, positions, and cash flows.

4. Under paragraph 9A(a)(1)(i):

(A) The examples of terms and information relating to market risk sensitive instruments that should be disclosed include, but are not limited to, the instruments' fair values, expected principal or transaction cash flows, weighted average effective rates or prices, and other relevant market risk related information;

(B) Functional currency means functional currency as defined by generally accepted accounting principles (*see, e.g.*, FASB, *Statement of Financial Accounting Standards No. 52, ''Foreign Currency Translation''*, (''FAS 52'') Appendix E (December 1981);

(C) Model assumptions that should be described include, but are not limited to, specification of the differing numbers reported in the table for various categories of instruments (*e.g.*, principal cash flows for debt, notional amounts for swaps, and contract amounts for options and futures) and key prepayment and/or reinvestment assumptions relating to the timing of reported cash flow amounts; and

(D) Market risk sensitive instruments that are exposed to rate or price changes in more than one market risk exposure category should be presented within the tabular information under each of those risk exposure categories.

5. Under paragraph 9A(a)(1)(ii), model assumptions and parameters that should be described include, but are not limited to, how loss is defined by the model (*e.g.*, loss in earnings, fair values, or cash flows), a general description of the modeling technique (*e.g.*, change in net present values arising from parallel shifts in market rates or prices and how optionality is addressed by the model), the types of instruments covered by the model (*e.g.*, derivative financial instruments, other financial instruments, derivative commodity instruments, and whether other instruments are included voluntarily, such as certain commodity instruments and positions, cash flows from anticipated transactions, and operating cash flows from non-financial and non-commodity

instruments), and other relevant information on the model's parameters, (*e.g.*, the magnitudes of parallel shifts in market rates or prices used, the method by which discount rates are determined, and key prepayment and/or reinvestment assumptions).

6. Under paragraph 9A(a)(1)(iii), model assumptions and parameters that should be described include, but are not limited to, how loss is defined by the model (*e.g.*, loss in earnings, fair values, or cash flows), type of model used (*e.g.*, variance/covariance, historical simulation, Monte Carlo simulation, and how optionality is addressed by the model), the types of instruments covered by the model (*e.g.*, derivative financial instruments, other financial instruments, derivative commodity instruments, and whether other instruments are included voluntarily, such as certain commodity instruments and positions, cash flows from anticipated transactions, and operating cash flows from non-financial and non-commodity instruments), and other relevant information on model parameters, (*e.g.*, holding period, confidence interval, and the method used for aggregating value at risk amounts across market risk exposure categories, such as by assuming perfect positive correlation, independence, or actual observed correlation).

7. Under paragraph 9A(a)(2), limitations that should be considered include, but are not limited to:

(A) The exclusion of certain market risk sensitive instruments, positions, and transactions from the disclosures required under paragraph 9A(a)(1) (*e.g.*, derivative commodity instruments not reasonably possible to be settled in cash or with another financial instrument, commodity positions, cash flows from anticipated transactions, and operating cash flows from non-financial and non-commodity instruments, such as cash flows from manufacturing activities). Failure to include such instruments, positions, and transactions in preparing the disclosures under paragraph 9A(a)(1) may be a limitation because the resulting information may not fully reflect the overall market risk of a registrant; and

(B) The ability of disclosures required under paragraph 9A(a)(1) to reflect fully the market risk that may be inherent in instruments with leverage, option, or prepayment features (*e.g.*, structured notes, collateralized mortgage obligations, leveraged swaps, and swaps with embedded written options).

(b) *Qualitative information about market risk*. To the extent material, describe:

(1) The registrant's primary market risk exposures;

(2) How those exposures are managed (*e.g.*, a description of the objectives, general strategies, and instruments, if any, used to manage those exposures); and

(3) Changes in either the registrant's primary market risk exposures or how those exposures are managed when compared to what was in effect during the most recent reporting period and what is known or expected to be in effect in future reporting periods.

Instructions to Paragraph 9A(b).

1. The disclosures required by this paragraph 9A(b) relate to the market risk exposures inherent in derivative financial instruments, other financial instruments, and derivative commodity instruments, as defined in the General Instructions to Paragraphs 9A(a) and 9A(b).

2. In preparing disclosures under paragraph 9A(b), the qualitative information about market risk should be presented separately for derivative financial instruments, other financial instruments, and derivative commodity instruments that are entered into for trading purposes and those that are entered into for purposes other than trading. In addition, qualitative information about market risk should be presented separately for those instruments used to manage risks inherent in anticipated transactions.

3. Primary market risk exposures, for the purposes of this paragraph, mean:

(A) The following categories of market risk: interest rate risk, foreign currency exchange rate risk, commodity price risk, and other similar market rate or price risks (*e.g.*, equity prices); and

(B) Within each of these categories, the particular markets that present the primary risk of loss to the registrant. For example, if a registrant has a material exposure to foreign currency exchange rate risk and, within this category of market risk, is most vulnerable to changes in dollar/yen, dollar/pound, and dollar/peso exchange rates, the registrant would disclose these exposures. Similarly, if a registrant has a material exposure to interest rate risk and, within this category of market risk, is most vulnerable to changes in short-term U.S. prime interest rates, it would disclose this exposure.

4. For purposes of disclosure under paragraph (b) of this item 9A, registrants should describe primary market risk exposures that exist at the end of the current reporting period, and how those exposures are managed.

General Instructions to Paragraphs 9A(a) and 9A(b).

1. The disclosure called for by paragraphs 9A(a) and 9A(b) is intended to clarify the registrant's exposure to market risks associated with activities in derivative financial instruments, other financial instruments, and derivative commodity instruments.

2. For purposes of paragraphs 9A(a) and 9A(b), derivative financial instruments, other financial instruments, and derivative commodity instruments (referred collectively as ''market rate sensitive instruments'' or ''instruments'') are defined as follows:

(A) Derivative financial instruments has the same meaning as defined by generally accepted accounting principles (*see, e.g.*, FASB, *Statement of Financial Accounting Standards No. 119, ''Disclosure about Derivative Financial Instruments and Fair Value of Financial Instruments*,'' paragraphs 5–7, (October 1994)), and includes futures, forwards, swaps, options, and other financial instruments with similar characteristics;

(B) Other financial instruments means all financial instruments as defined by generally accepted accounting principles (*see, e.g.*, FASB, *Statement of Financial Accounting Standards No. 107, ''Disclosures about Fair Value of Financial Instruments*,'' paragraph 3, (December 1991)), except for derivative financial instruments, as defined above;

(C) Other financial instruments include, but are not limited to, trade accounts receivable, investments, loans, structured notes, mortgage-backed securities, trade accounts payable, indexed debt instruments, interest-only and principal-only obligations, deposits, and other debt obligations. However, for purposes of this release, trade accounts receivable and trade accounts payable should not be considered other financial instruments when their carrying amounts approximate fair value; and

(D) Derivative commodity instruments include, to the extent such instruments are not derivative financial instruments, commodity futures, commodity forwards, commodity swaps, commodity options, and other commodity instruments with similar characteristics that are reasonably possible to be settled in cash or with another financial instrument. For purposes of paragraphs 9A(a) and 9A(b) and these general instructions, the term ''reasonably possible'' has the same meaning as defined by generally accepted accounting principles (*see, e.g.*, FASB, *Statement of Financial Accounting Standards No. 5, ''Accounting for Contingencies*,'' paragraph 3, (March 1975)).

3. For purposes of paragraphs 9A(a) and 9A(b), disclosure is not required for:

(A) Commodity positions;

(B) Derivative commodity instruments that are not reasonably possible to be settled in cash or with another financial instrument;

(C) Cash flows from anticipated transactions; and/or

(D) Operating cash flows from non-financial and non-commodity instruments.

4. (A) For purposes of making a materiality assessment under paragraphs 9A(a) and 9A(b), registrants should consider both:

(i) The materiality of the fair values of derivative financial instruments, other financial instruments, and derivative commodity instruments outstanding at the end of the current reporting period; and

(ii) The materiality of the potential loss in future earnings or fair values from reasonably possible market movements.

(B) If either (i) or (ii) of instruction 4. (A) is material, then the disclosures under paragraphs 9A(a) and 9A(b) are required.

(C) In determining the materiality of the fair values of market risk sensitive instruments outstanding at the end of the current reporting period, registrants generally should not net fair values, except to the extent allowed under generally accepted accounting principles (*see, e.g., FASB Interpretation No. 39, ''Offsetting of Amounts Related to Certain Contracts''* (March 1992)). For example, under this instruction, the fair value of assets generally should not be netted with the fair value of liabilities. In determining the materiality of the potential loss in future earnings or fair values from reasonably possible market movements, registrants should consider both the magnitude of past market movements, as well as expectations about the magnitude of future market movements. In addition, in making the determination under this instruction about the materiality of the potential loss in future earnings, fair values, or cash flows, registrants should consider, among other things, potential losses that may arise from leverage, option, and/or multiplier features.

5. For purposes of presenting quantitative and qualitative information about market risk, registrants generally should provide the required information in one location. However, alternative presentation, such as inclusion of all or part of the information in the footnotes to the financial statements or in Management's Discussion and Analysis, may be used if such presentation would be more meaningful to investors.

6. For purposes of the instructions to paragraphs 9A(a) and 9A(b), ''trading purposes'' has the same meaning as defined by generally accepted accounting principles (*see, e.g.*, FASB, *Statement of Financial Accounting Standards No. 119, ''Disclosure about Derivative Financial Instruments and Fair Value of Financial Instruments,''* paragraph 9a, (October 1994)). In addition, ''anticipated transactions'' means transactions (other than transactions involving existing assets or liabilities or transactions necessitated by existing firm commitments) an enterprise expects, but is not obligated, to carry out in the normal course of business (*e.g.*, FASB, *Statement of Financial Accounting Standards No. 80, ''Accounting for Futures Contracts,''* paragraph 9, (August 1984)).

Appendix to Item 9A—Tabular Disclosures

The tables set forth below are illustrative of the format that might be used when a registrant elects to present the information required by paragraph (a)(1)(i)(A) of Item 9A regarding terms and information about derivative financial instruments, other financial instruments, and derivative commodity instruments. These examples are for illustrative purposes only. Registrants are not required to display the information in the specific manner illustrated below. Alternative methods of display are permissible as long as the disclosure requirements of the section are satisfied. Furthermore, these examples were designed primarily to illustrate possible formats for presentation of the information required by the proposed section and do not purport to illustrate the broad range of derivative financial instruments, other financial instruments, and derivative commodity instruments utilized by registrants.

Interest Rate Sensitivity

The table below provides information about the Company's derivative financial instruments and other financial instruments, which are sensitive to changes in interest rates, including interest rate swaps and debt obligations. For debt obligations, the table presents principal cash flows and related weighted average interest rates by expected maturity dates. Weighted average variable rates are based on implied forward rates in the yield curve at the reporting date. For interest rate swaps, the table presents notional amounts and weighted average interest rates by expected (contractual) maturity dates. Notional amounts are used to calculate the contractual payments to be exchanged under the contract. The information is presented in US dollar equivalents, which is the Company's reporting currency. The instrument's actual cash flows are denominated in both US dollar ($US) and German deutschmarks (DMs), as indicated in parentheses.

December 31, 19×1	Expected maturity date						Total	Fair Value
	19×2	19×3	19×4	19×5	19×6	There-after		
	(In millions)							
Liabilities:								
Long-term Debt:								
Fixed Rate ($US)	$XXX	$XXX	$XXX	$XXX	$XXX	$XXX	$XXX	$XXX
Average interest rate	X.X%	X.X%	X.X%	X.X%	X.X%	X.X%	X.X%	
Fixed Rate (DMs)	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX
Average interest rate	X.X%	X.X%	X.X%	X.X%	X.X%	X.X%	X.X%	
Variable Rate ($US)	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX
Average interest rate	X.X%	X.X%	X.X%	X.X%	X.X%	X.X%	X.X%	

	Expected maturity date						Total	Fair value
	19×2	19×3	19×4	19×5	19×6	There-after		
	(In millions)							
Interest Rate Derivatives:								
Interest Rate Swaps								
Variable to Fixed ($US)	$XXX	$XXX	$XXX	$XXX	$XXX	$XXX	$XXX	$XXX
Average pay rate	X.X%	X.X%	X.X%	X.X%	X.X%	X.X%	X.X%	
Average receive rate	X.X%	X.X%	X.X%	X.X%	X.X%	X.X%	X.X%	
Fixed to Variable ($US)	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX
Average pay rate	X.X%	X.X%	X.X%	X.X%	X.X%	X.X%	X.X%	
Average receive rate	X.X%	X.X%	X.X%	X.X%	X.X%	X.X%	X.X%	

Exchange Rate Sensitivity

The table below provides information about the Company's derivative financial instruments, other financial instruments, and firmly committed sales transactions by functional currency and presents such information in U.S. dollar equivalents.[1] The table summarizes information on instruments and transactions that are sensitive to foreign currency exchange rates, including foreign currency forward exchange agreements, deutschmark (DM)-denominated debt obligations, and firmly committed DM sales transactions. For debt obligations, the table presents principal cash flows and related weighted average interest rates by expected maturity dates. For firmly committed DM-sales transactions, sales amounts are presented by the expected transaction date, which are not expected

[1] The information is presented in U.S. dollars because that is the registrant's reporting currency.

to exceed two years. For foreign currency forward exchange agreements, the table presents the notional amounts and weighted average exchange rates by expected (contractual) maturity dates. These notional amounts generally are used to calculate the contractual payments to be exchanged under the contract.

December 31, 19×1	Expected maturity date						Total	Fair value
	19×2	19×3	19×4	19×5	19×6	There-after		
	(US$ Equivalent in Millions)							
On-Balance Sheet Financial Instruments:								
$US Functional Currency[2] Liabilities								
Long-Term Debt (DM)	$XXX	$XXX	$XXX	$XXX	$XXX	$XXX	$XXX	$XXX
Average U.S. dollar /DM Exchange Rate	X.X	X.X	X.X	X.X	X.X	X.X	X.X	....

[2] Similar tabular information would be provided for other functional currencies.

	Expected maturity or transaction date					There-after	Total	Fair value
	19×2	19×3	19×4	19×5	19×6			
	(US$ Equivalent in millions)							
Anticipated Transactions and Related Derivatives[3]								
$US Functional Currency:								
Firmly committed transactions:								
Sales Contracts (DM)	$XXX	$XXX	....	....	....	....	$XXX	$XXX
Forward Exchange Agreements (Receive $US/Pay DM):								
Contract Amount	XXX	XXX	....	....	....	....	$XXX	$XXX
Average Exchange Rate	X.X	X.X	....	....	....	....	X.X	....

[3] Pursuant to Instruction 3 to proposed Item 9A of Form 20–F, registrants may include cash flows from anticipated transactions and operating cash flows resulting from non-financial and non-commodity instruments.

Commodity Price Sensitivity

The table below provides information about the Company's corn inventory and futures contracts that are sensitive to changes in commodity prices, specifically corn prices. For inventory, the table presents the carrying amount and fair value at December 31, 19x1. For the futures contracts the table presents the notional amounts in bushels, the weighted average contract prices, and the total dollar contract amount by expected maturity dates, the latest of which occurs within one year from the reporting date. Contract amounts are used to calculate the contractual payments and quantity of corn to be exchanged under the futures contracts.

December 31, 19×1	Carrying amount	Fair Value
On Balance Sheet Commodity Position and Related Derivatives:	(In millions)	
Corn Inventory	$XXX .	$XXX[4]

[4] Pursuant to proposed Instruction 3 to proposed Item 9A of Form 20–F, registrants may include information on commodity positions, such as corn inventory.

	Expected maturity 1992	Fair value
Related Derivatives:		
Futures Contracts (Short):		
Contract Volumes (100,000 bushels)	XXX	....
Weighted Average Price (Per 100,000 bushels)	$X.XX	
Contract Amount ($US in millions)	$XXX	$XXX

* * * * *

19. By amending Form 10–Q (referenced in § 249.308a) by removing references to ''Items 1 and 2 of Part I of this form'' and adding in their place references to ''Items 1, 2, and 3 of Part I of this form'' in paragraphs 1 and 2 of General Instruction F, adding paragraph 2.c. to General Instruction H and Item 3 to Part I to read as follows:

Note—The text of Form 10–Q does not, and this amendment will not, appear in the Code of Federal Regulations.

Form 10–Q

Quarterly Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 or Transition Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

* * * * *

General Instructions

* * * * *

H. Omission of Information by Certain Wholly-Owned Subsidiaries

* * * * *

2. * * *

c. Such registrants may omit the information called for by Item 3 of Part I, Quantitative and Qualitative Disclosures About Market Risk.

* * * * *

Part I—Financial Information

* * * * *

Item 3. Quantitative and Qualitative Disclosures About Market Risk

If there has been a material change in the information required by Item 305 of Regulation S–K (§ 229.305 of this chapter) from the end of the preceding fiscal year to the date of the most recent interim balance sheet provided, furnish the information required by Item 305 of Regulation S–K.

* * * * *

20. By amending Form 10–K (referenced in § 249.310) by adding Item 7A to be inserted after Item 7 and before Item 8 in Part II to read as follows:

Note—The text of Form 10–K does not, and this amendment will not, appear in the Code of Federal Regulations.

Form 10–K

Annual Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 or Transition Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

* * * * *

Part II

* * * * *

Item 7A. Quantitative and Qualitative Disclosures About Market Risk.

Furnish the information required by Item 305 of Regulation S–K (§ 229.305 of this chapter).

* * * * *

Dated: December 28, 1995.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–130 Filed 1–5–96; 8:45 am]

BILLING CODE 8010–01–P

federal register

Monday
January 8, 1996

Part III

Department of Transportation

Federal Highway Administration

49 CFR Part 391

Qualifications of Drivers, Vision and Diabetes; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 391

[FHWA Docket No. MC–96–2]

RIN 2125–AD73

Qualification of Drivers; Vision and Diabetes; Limited Exemptions

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); request for comments.

SUMMARY: The FHWA announces a proposal to allow those drivers currently holding valid waivers from both the vision and diabetes standards contained in the Federal Motor Carrier Safety Regulations (FMCSRs) to continue to operate in interstate commerce after March 31, 1996. This action is directed solely at those drivers who have been granted temporary waivers to participate in either the Federal vision waiver study, who numbered 2240, or in the Federal diabetes waiver study, who number 119 as of November 1, 1995. The FHWA believes that allowing this special group of drivers to continue to drive after March 31, 1996, is consistent with the public interest and safe operation of commercial motor vehicles (CMV). This action is necessary because the waiver program termination date of March 31, 1996, has been established, and without this action, the drivers will no longer be qualified to operate in interstate commerce after that date. The FHWA proposes to allow these drivers to continue operations, subject to certain operating conditions. The proposal also includes a technical amendment to relocate an existing provision so that all limited exemptions from driver qualification standards can be found in the same subpart.

DATES: Comments must be received on or before February 7, 1996.

ADDRESSES: Submit written, signed comments to FHWA Docket No. MC–96–2, Room 4232, HCC–10, Office of the Chief Counsel, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination at the above address from 8:30 a.m. to 3:30 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed envelope. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable. The FHWA may issue a final determination and rule on this matter at any time after the close of the comment period.

FOR FURTHER INFORMATION CONTACT: The FHWA has established a special telephone number to receive inquiries regarding this action. The number is 1–800–832–5660. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: Section 206(f) of the Motor Carrier Safety Act of 1984 (MCSA), Pub. L. No. 98–554, 98 Stat. 2835 (codified at 49 U.S.C. 31136(e), formerly 49 U.S.C. App. 2505(f)) allows the Secretary of Transportation to issue waivers from the Federal Motor Carrier Safety Regulations only after a determination that such waivers are not contrary to the public interest and are consistent with the safe operation of CMVs. Historically, the FHWA has issued limited waivers and does not intend to enter into any large scale program of exemptions. The safety performance data collected under the vision and diabetes waiver programs would be used as the basis for this determination; however, separate research proceedings would form the basis for any future adjustments, if warranted, to the current vision and diabetes standards. The FHWA has decided on a 30 day comment period in order to give adequate notice to waived drivers of their status at the conclusion of the waiver program on March 31, 1996. Prior notices on the waiver program have established the issues facing the FHWA in deciding the disposition of these drivers; therefore, these issues are well known to potential commenters on this notice. See 59 FR 50887 (October 6, 1994) and 59 FR 59386 (November 17, 1994).

Vision Waiver Program Background

On February 28, 1992, the FHWA published a notice of proposed rulemaking (NPRM), 57 FR 6793, requesting comments on the need, if any, to amend its driver physical qualification requirements relating to vision. On March 25, 1992, the FHWA published a notice of intent to issue waivers from the vision requirement, 57 FR 10295. The notice indicated that applications would be processed as quickly as possible and waivers would be issued for a period of three years or until the current rulemaking addressing the Federal vision requirement is completed, whichever occurred first. The notice imposed certain conditions and reporting requirements on applicants, among them that applicants for a waiver submit medical certification that the vision in their better eye is at least 20/40 acuity, corrected or uncorrected.[1]

The FHWA published a subsequent notice, 57 FR 23370, on June 3, 1992, announcing the receipt of applications by drivers for waiver of the FHWA's vision requirements and seeking comments on its intent to waive its vision requirements for drivers who met certain conditions. The notice explained that the proposed waiver program would enable the FHWA to conduct a study comparing a group of experienced drivers with a visual deficit in one eye with a control group of experienced drivers who meet the Federal vision requirements. The FHWA believed that the study would provide the empirical data that a previous study did not.

In its Notice of Final Disposition, 57 FR 31458, published on July 16, 1992, the FHWA instituted the waiver program, making temporary waivers available to drivers who met the announced conditions. The FHWA determined that the waiver is not contrary to the public interest. The program is consistent with the national policy, as expressed in the Rehabilitation Act of 1973 and the Americans with Disabilities Act, to facilitate the employment of qualified individuals with disabilities. Moreover, the FHWA found that the waiver program was consistent with the safe operation of CMVs because the program's requirements would effectively screen out unsafe drivers.

These safeguards required waiver applicants to be otherwise qualified under 49 CFR Part 391, and hold a valid commercial driver's license to operate a CMV issued after April 1, 1990. The applicant must also have had three years' recent experience driving a CMV without (1) license suspension or revocation; (2) involvement in a reportable accident in which the applicant received a citation for a moving violation; (3) conviction for driving a CMV while intoxicated, leaving the scene of an accident involving a CMV, commission of a felony or more than one serious traffic violation involving a CMV; or (4) more than two convictions for any other moving violation in a CMV. Finally, the applicant had to present proof from an

[1] The current Federal vision standard for CMV drivers requires: distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70 degrees in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber. 49 CFR 391.41(b)(10).

optometrist or ophthalmologist certifying that the applicant's visual deficiency has not worsened since his or her last examination, that vision in one eye is at least 20/40 acuity, corrected or uncorrected, and that the applicant is able to perform the driving tasks required to operate a CMV.

In addition, the applicant had to comply with the following requirements: (1) report all citations for moving violations involving a CMV; (2) report the disposition of the charge; (3) report any accident involvement whatsoever while operating a CMV; (4) submit documentation of an annual examination by an ophthalmologist or optometrist; and (5) submit reports of vehicle miles traveled monthly in a CMV.

Court Decision

On August 2, 1994, the U.S. Court of Appeals for the D.C. Circuit found that the agency's "determination that the waiver program will not adversely affect the safe operation of CMVs is devoid of empirical support in the record" and that "the FHWA has failed to meet the exacting requirements of section 2505(f) (now 49 U.S.C. 31136(e))." *Advocates for Highway and Auto Safety* v. *FHWA*, 28 F.3d 1288, 1294. Consequently, the Court concluded that the FHWA's adoption of the waiver program was contrary to law, and vacated and remanded the rule to the agency.

On October 6, 1994, the FHWA published a Notice of Determination, Request for comments, 59 FR 50887, extending the validity of the vision waivers for a thirty-day period. The notice also proposed to allow the waiver program to continue until its original March 31, 1996, termination date based on the additional empirical evidence presented in the notice. On the same day, an emergency motion was filed in the D.C. Circuit requesting that the court issue and enforce the mandate in *Advocates*, thereby halting the waiver program. The court issued its mandate on October 21, 1994, and on October 24, 1994, the court denied the Advocates' emergency motion.

On November 17, 1994, the FHWA published a Notice of Final Determination (59 FR 59386) that continued the vision waiver program through March 31, 1996. The FHWA's decision was based, in part, on data collected on the group of waived drivers indicating that they had performed and continued to perform more safely than drivers in the general population of commercial drivers. The notice announced that the FHWA would develop and impose more stringent performance conditions to further reduce the safety risks to the waived drivers and highway users. This task was accomplished by separate mailings to vision waiver drivers on February 8, 1995. The notice also announced that the FHWA would convene a public meeting regarding its research plans with respect to defining the appropriate vision standard.

Diabetes Waiver Program Background

The FHWA has considered various amendments to its diabetes requirement since 1977. See 55 FR 41028 (October 5, 1990) (notice of proposed rulemaking) and 52 FR 45204 (November 25, 1987) (advance notice of proposed rulemaking) with FHWA docket number MC–87–17. Please refer to these notices for a complete background discussion of the FHWA's efforts in this area. Copies can be found in the docket.

The FHWA published in the Federal Register a Notice of Intent to Initiate a Waiver Program for certain insulin-using diabetic drivers of CMVs from the absolute prohibition contained in the FMCSRs. See 57 FR 48011 (October 21, 1992). The intent of the proposed waiver program was to collect data on the driving experience of a group of insulin-using drivers and use that information to support amending, if warranted, the current diabetes requirement.[2]

On July 29, 1993, the FHWA published in the Federal Register a Notice of Final Disposition allowing certain insulin-using diabetic drivers to operate a CMV in interstate commerce for a 3-year period. Stringent conditions were established to satisfy the mandate that this action be consistent with the safe operation of CMVs. These conditions included at least three years of experience driving a CMV while the individual had been using insulin to control his or her diabetes, a good driving record (as in the vision waiver condition) and certification from an endocrinologist that the diabetic condition will not adversely impact on the applicant's ability to operate a CMV. In addition, participants were required to monitor their blood glucose levels using portable glucose monitoring devices and maintain accurate logs, submit monthly driving activity reports to the FHWA, notify the FHWA of any involvement in an accident and undergo biannual examinations by an endocrinologist. Approximately 140 drivers were accepted into the diabetes waiver program. For a complete description of the diabetes waiver program, see 58 FR 40690, July 29, 1993.

The August 2, 1994, court decision in *Advocates* called into question the FHWA's ability to issue waivers to insulin-treated diabetic drivers because of the similar approach used to pre-qualify drivers for participation in the diabetes waiver program.

Accordingly, the FHWA notified the diabetes waiver drivers, in separate mailings on March 28, 1995, of the court's decision and changes to the Vision and Diabetes Waiver Programs that allowed both programs to continue until March 31, 1996. The FHWA established stricter performance conditions for all participants, and enhanced the FHWA's monitoring of the performance of the waived drivers in order to ensure compliance with the statutory test as construed by the court.

Proposed Action

The FHWA now proposes that the waived drivers in the vision and diabetes programs should be allowed to continue driving in interstate commerce after March 31, 1996. The underlying basis for this proposal is that the FHWA has significant data to show that the continued operation of both waived groups of drivers, who total 2359 as of November 1, 1995, would be consistent with the safe operation of CMVs. Prior to being admitted into the study the waiver applicants had to demonstrate a three-year period of accident-free driving performance, coupled with an absence of serious traffic violations. Since the program began, the data have shown that the driving performance of this group of waived drivers was and continues to be better than the driving performance of all CMV drivers collectively, based on data obtained from the General Estimates Service (GES) as discussed more fully below.[3] Moreover, each driver in the waiver programs has been closely monitored, in many cases for three years or more. Coupled with their 3-year good driving record preceding the waivers, the drivers have individually merited partial exemption from §§ 391.41(b)(10) or 391.41(b)(3).

Consequently, the FHWA proposes to amend part 391 of the FMCSRs to grant grandfather rights to all drivers holding a valid Federal vision or diabetes waiver on March 31, 1996. By proposing the grandfather provision, the FHWA intends to allow only those drivers who have been granted temporary waivers to

[2] The current Federal diabetes standard for CMV drivers requires no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control. 49 CFR 391.41(b)(3).

[3] The GES is a national survey conducted by the National Highway Traffic Safety Administration and was selected for use as the best measure of the prevailing national norm relative to large truck accidents.

participate in the Federal vision and diabetes waiver programs, numbering 2359 as of November 1, 1995, to continue to operate in interstate commerce beyond March 31, 1996, subject to certain operating conditions. This action would provide relief to these drivers who otherwise would not be permitted to operate a CMV in interstate commerce. These grandfather provisions would also be conditional in order to further reduce any possible risk associated with those drivers. In addition to the conditions regarding medical requirements discussed below, the FHWA proposes to continue monitoring the performance of these drivers through periodic checks.

Medical Requirements for Operating Under This Grandfather Provision

The FHWA recognizes that any person's medical or physical condition may deteriorate in a short period of time. The FHWA proposes to require an annual physical examination pursuant to § 391.43, instead of every 2 years as is required of other drivers, as an extra precaution to ensure the continued safe operation of these drivers. Under this provision, these drivers, as all other interstate drivers, must be otherwise physically qualified pursuant to § 391.41 of the FMCSRs.

In addition, the FHWA proposes that vision impaired drivers who would be grandfathered as a result of this action be required to obtain an annual vision examination by an ophthalmologist or optometrist indicating that they have been examined within the past two months and that the vision in the better eye is at least 20/40 acuity, corrected or uncorrected. This information would be submitted to the medical examiner at the time of the individual's annual physical qualification examination under part 391 of the FMCSRs. Accordingly, the FHWA proposes to amend part 391 to incorporate these conditions.

Similarly, diabetic drivers proposed to be grandfathered as a result of this proposal would be required to obtain an annual examination by a board certified/eligible endocrinologist who must certify that the driver (1) has been examined within the past two months; (2) is free of insulin reactions; (3) has the ability and has demonstrated willingness to properly monitor and manage his/her diabetes; and (4) does not have a diabetic condition that would adversely affect his or her ability to operate a CMV. One is free of insulin reactions if that individual has experienced less than one documented, symptomatic hypoglycemic reaction per month. These drivers would be required to carry a source of rapidly absorbable glucose and continue to monitor their blood glucose using a portable glucose monitoring device equipped with a computerized memory one hour prior to and approximately every four hours while driving. Upon request, the driver would submit his or her blood glucose logs to the endocrinologist and/or the medical examiner or when otherwise directed by an authorized agent of the FHWA. A copy of the endocrinologist's report would be submitted to the medical examiner at the time of the annual physical qualification examination under part 391 of the FMCSRs.

The FHWA proposes to require this group of drivers to carry a medical examiners certificate stating: ''Medically qualified by operation of 49 CFR 391.64.'' Drivers who do not provide a copy of the required information from the ophthalmologist/optometrist or the endocrinologist to the medical examiner at the time of their annual physical qualification examinations cannot be recertified to continue driving a CMV in interstate commerce under this proposed grandfather provision.

Analysis

The FHWA's proposed action is supported by the findings in an assessment prepared for the FHWA to determine the risk associated with the exposure to the public that is represented by allowing waivered drivers to continue driving after March 31, 1996. A copy of this assessment is contained in the docket for public inspection.

Since the inception of the waiver programs, drivers with waivers have been monitored continuously. The monitoring has involved comparing the accident rates of the waivered drivers to rates of a reference group, GES, that represent the safety level for drivers of large trucks (10,000 lbs. or larger) in the United States. The overall accident rates of the waivered group represent the cumulative number of accidents for drivers still in the program at the time of the report. To determine if the waivered drivers in the vision program posed an excessive threat to public safety, the monitoring process used the 90 percent confidence intervals associated with each cumulative accident rate and if the lower limit of that confidence interval did not exceed the national accident rate, the drivers in the program were considered not to be a threat to public safety.

To determine if the waivered drivers in the diabetes program posed an excessive threat to public safety, it was decided that sampling error and confidence intervals would play no role in the decision process. This was done because the small sample of drivers who received diabetes waivers would lead to wide confidence intervals. Rather, in the event that the accident rate of the diabetes waiver group would become larger than the national rate, notification would be made that there could be a threat to public safety. In this case, the national rate is treated as a constant since it is frequently expressed as an official rate without a confidence interval.

Additional monitoring and more stringent conditions were implemented in early 1995 in response to the *Advocates* decision and the concerns raised by the safety community. In addition to the group assessment, the waivered drivers were now subject to a day-by-day individual assessment relative to program compliance, violations and accidents. Drivers in violation of program conditions were identified and removed if warranted; thereby identifying, in a timely fashion, aspects of the program that could compromise public safety.[4] Therefore in both cases, data presented below will represent drivers who are still in the program as of this notice.

Drivers With Vision Waivers

The FHWA examined the vision waiver data in terms of how the waiver group performed in relation to the national population of large truck drivers and the future risk of these drivers from their behavior across time. An examination of the cumulative accident rates of the vision waivered drivers has shown a steady decline, and by June 1995, the cumulative accident rate (1.63) was significantly lower than the most recent national rate (2.422).

An assessment of the trend in accident rates for this group was performed since the future driving behavior of this group is important to the disposition of the program. Findings from the evaluation of accident data occurring in six-month periods indicate that there is a decline in the total

[4] *Vision:* At the end of October, 1995, 2240 drivers remained in the vision waiver program. A total of 317 drivers had their waivers revoked. Two hundred and thirty one were revoked for failure to submit monthly mileage reports. Twelve were revoked because of convictions for serious traffic or disqualifying offenses. Sixty-five were revoked for failure to submit a medical exam. Seven waivers were canceled for medical reasons. *Diabetes:* At the end of October, 1995, 119 drivers remained in the diabetes waiver program. A total of seven drivers had their waivers revoked. Three were revoked for failure to submit monthly mileage reports. One driver had his waiver revoked because of a disqualifying offense. Three were revoked for failing to submit a medical exam. Nine waivers were canceled for medical reasons.

accident rates across the periods. This significant negative trend suggests that these drivers are becoming increasingly careful in the operation of CMVs.

Some accidents that are the fault of these drivers can be clearly identified by virtue of an associated moving violation issued to a waivered driver. All waivered drivers are required to report any accident involvement whatsoever while operating a CMV and all accident information is verified through each driver's State motor vehicle record (MVR). Accidents associated with moving violations were examined for six-month periods between July 1992 and June 1995. The accident rates decreased across time with the exception of the period between January 1994 and June 1994. One explanation for this anomaly could be the severe winter weather that occurred in that period. The negative trend for accidents associated with moving violations was not as pronounced as the negative trend for total accidents for the waivered group.

This evaluation of the performance data and assessment of risk indicates that the drivers who received vision waivers and are presently in the program will present no additional risk if they are allowed to continue to drive after March 1996. This group of drivers had accident rates initially (July 1992 to June 1993) that were comparable to the general population of large truck drivers. Following that period, their accident rates were consistently lower than the national rate. That performance, coupled with a three-year period of safe driving performance prior to being admitted into the program, suggests that this group of drivers exhibits behavior which presents no additional risk to the public.

With respect to future risk to the public, the data show a decreasing trend in total accident rates over equal time periods across driver participation in the waiver program. Accidents associated with a moving violation also show a decreasing trend, though not as pronounced as total accidents. This, combined with accident rates that are lower than the national rate, shows that these drivers will be less of a threat to public safety than the general population of CMV drivers. Moreover, each driver's performance was individually assessed to the extent that such driver met the requirements of the strengthened conditions and closer monitoring in effect since February 1995.

Drivers With Waivers for Diabetes

Overall monitoring of this group is performed on a quarterly basis in relation to the national accident rate for large trucks. As previously mentioned, the national rate is treated as a constant and any time the accident rate of the waivered group is larger than the national rate, notification is made to the FHWA that there could be a threat to public safety. From September 1993 to May 1995, 11 accidents were reported and, during this same period, waivered drivers reported a total of 3.83 million vehicle miles traveled (VMT). The accident rate of the waivered drivers for this period is 2.872 accidents per million VMT. This is larger than the 1993 national rate, 2.390 accidents per million VMT. The property damage only accident rate for the waivered drivers (2.089) is also larger than the comparable national rate (1.782) as is the case for the fatal accidents (.261 for waiver group versus .027 for the national rate).

Because of the warning systems, these accidents were analyzed on an individual basis before decisions were made to continue the program. Of the eleven accidents reported, only one was shown to be the fault of a driver in the program. Although this driver was not initially charged in this accident, the accident did involve a fatality and the waivered driver was subsequently charged and convicted of involuntary manslaughter. Consistent with the conditions, this driver's waiver has been revoked and the driver has been dropped from the program.

In none of the other ten accidents was the waivered driver found to be at fault. Most involved only incidental contact with another vehicle. In fact, only three of the ten accidents would have been reportable or recordable under applicable regulations due to injury or damage. These three, plus the one involving a fatality, are the only accidents which are actually comparable to the national data. Accidents are not included in the national data unless there is a police report and one of the involved vehicles is towed from the accident scene. This is not the case for the waiver programs where all accidents are included, regardless of how minor they are. If the same criteria were to be applied to the waivered group, then only three of the eleven accidents would be comparable to the national data and the resulting accident rate for the drivers with waivers for diabetes would be .783 per million VMT. This rate is considerably below the national rate of 2.390. Based on this performance data and the demonstrated three-year period of safe driving by this group prior to being admitted into the waiver program, it is reasonable to conclude that these drivers are not a high risk group.

Notwithstanding the good driving performance of these drivers, the FHWA proposes to require the continued monitoring of the physical conditions that have caused these drivers to be unqualified pursuant to § 391.41(b)(10) and § 391.41(b)(3) of the FMCSRs. Therefore, the FHWA is requiring annual medical examinations to evaluate the disqualifying conditions in addition to the annual physical qualification examinations pursuant to part 391 of the FMCSRs.

Notice of Determination

The FHWA believes that its proposed actions in this document are consistent with the public interest and consistent with the safe operation of commercial motor vehicles. Based on the performance data gathered to date and the risk analysis performed on this data, the FHWA proposes that the drivers who currently hold waivers from the Federal vision and diabetes requirements should be allowed to continue to operate CMVs in interstate commerce after March 31, 1996. The statistics that have been gathered from these groups of waived drivers indicate that these drivers have performed and continue to perform more safely than those drivers in the general population of commercial drivers. In addition to their good driving performance, the continued monitoring of their physical condition and safety performance will further ensure the continued safe operation of these CMV drivers. The performance data collected under the vision and diabetes waiver programs would be used as the basis for this proposal; however, separate research proceedings would form the basis for any future adjustments, if warranted, to the current vision and diabetes standards.

Additionally, the proposal to permit these grandfathered drivers to continue to work in their chosen field of occupation is consistent with the public interest policy of employing persons with disabilities, which is evidenced in both the Rehabilitation Act of 1973, Pub. L. 93–112, 87 Stat. 355, as amended, and the Americans With Disabilities Act of 1990, Pub. L. 101–336, 104 Stat. 327, as amended. Therefore, the FHWA proposes to amend part 391 of the FMCSRs to incorporate these grandfather provisions for these groups of drivers.

Technical Amendment

The FHWA is also proposing to relocate the provision in Part 391 providing limited exemptions for intracity zone drivers. The current provision, required under the Motor Carrier Act of 1988 (49 U.S.C. 31136(f)), is codified as paragraph (d) of 49 CFR 391.2, General Exemptions. This action would redesignate the provision, without any substantive change, as § 391.62, where it is more properly included in subpart G, Limited Exemptions.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined that the proposed action, if implemented, would not be a significant regulatory action under Executive Order 12866 or under the regulatory policies and procedures of the DOT. It is anticipated that the economic impact of this proposed rule would be minimal because of its limited application and the small number of affected drivers. Moreover, the action proposed herein would not have any permanent effect on any existing safety standard. It would merely continue the status quo by grandfathering some 2,300 drivers who have been operating safely for substantial periods of time. Therefore, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act, 5 U.S.C. 601–612, the FHWA has evaluated the effects of this proposal on small entities. The FHWA believes that this proposed action would not have a significant economic impact on a substantial number of small entities because this proposal is directed solely at a limited number and narrowly defined population of CMV drivers operating in interstate commerce. This proposal would not cause a major increase in costs or prices and, therefore, would not have a significant effect on the nation’s economy. The FHWA intends to further evaluate the economic consequences of this proposal on small entities in light of the comments received in response to this notice.

Executive Order 12612 (Federalism Assessment)

This proposed rulemaking, if promulgated, would amend Part 391 of the FMCSRs pertaining to the qualification of drivers. This action would allow drivers who currently hold waivers from the Federal vision and diabetes requirements to continue operating in interstate commerce after March 31, 1996. This proposal has been analyzed in accordance with the principles and criteria contained in Executive Order 12612. Nothing in this proposal would directly preempt any State law or regulation. This proposal would not limit the policymaking discretion of the States. Therefore, the FHWA has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a separate Federalism Assessment.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

This program does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501–3520.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 391

Driver qualifications, Highways and roads, Highway safety, Motor carriers, Motor vehicle safety.

Issued on: December 21, 1995.

Rodney E. Slater,

Federal Highway Administrator.

In consideration of the foregoing, the FHWA proposes to amend 49 CFR, subchapter B, chapter III, part 391 as set forth below:

PART 391—QUALIFICATIONS OF DRIVERS [REVISED]

1. The authority citation for part 391 continues to read as follows:

Authority: 49 U.S.C. 504, 31133, 31136, and 31502; and 49 CFR 1.48.

§ 391.2 [Redesignated]

2. Part 391 is amended by redesignating § 391.2, as § 391.62, and revising the section to read as follows:

§ 391.62 Limited exemptions for intra-city zone drivers.

The provisions of §§ 391.11 (b)(1) and 391.41 (b)(1) through (b)(11) do not apply to a person who:

(a) Was otherwise qualified to operate and operated a commercial motor vehicle in a municipality or exempt intracity zone thereof throughout the one-year period ending November 18, 1988;

(b) Meets all the other requirements of this section;

(c) Operates wholly within the exempt intracity zone (as defined in § 390.5);

(d) Does not operate a vehicle used in the transportation of hazardous materials in a quantity requiring placarding under regulations issued by the Secretary under 49 U.S.C. chapter 51; and

(e)(1) Was not yet 21 years of age on July 1, 1988; or

(2) Has a medical or physical condition which:

(i) Would have prevented such person from operating a commercial motor vehicle under the Federal Motor Carrier Safety Regulations contained in this subchapter;

(ii) Existed on July 1, 1988, or at the time of the first required physical examination after that date; and

(iii) The examining physician has determined has not substantially worsened since July 1, 1988, or at the time of the first required physical examination after that date.

2. A new § 391.64 is added to read as follows:

§ 391.64 Grandfathering for certain drivers participating in vision and diabetes waiver studies.

(a) The provisions of § 391.41(b)(3) do not apply to a driver who was a participant in good standing on March 31, 1996, in a study concerning the operation of commercial motor vehicles by insulin-controlled diabetic drivers, *provided:*

(1) The driver is physically examined every year, including an examination by a board-certified/eligible endocrinologist attesting to the fact the driver is:

(i) Otherwise qualified under § 391.41;

(ii) Free of insulin reactions (one is free of insulin reactions if that individual has experienced less than one documented, symptomatic hypoglycemic reaction per month);

(iii) Able to and has demonstrated willingness to properly monitor and manage his/her diabetes; and

(iv) Not likely to suffer any diminution in driving ability due to his/her diabetic condition.

(2) The driver agrees to and complies with the following conditions:

(i) A source of rapidly absorbable glucose will be carried at all times while driving;

(ii) Blood glucose levels are to be self-monitored one hour prior to driving and at least once every four hours while driving or on duty prior to driving using a portable glucose monitoring device equipped with a computerized memory;

(iii) Blood glucose logs will be submitted to the endocrinologist or medical examiner at the annual examination or when otherwise directed by an authorized agent of the FHWA; and

(iv) A copy of the endocrinologist's report will be provided to the medical examiner at the time of the annual medical examination; and

(v) A copy of the annual medical certification will be provided to the employer for retention in the driver's qualification file and a copy of the certification will be retained on his/her person while driving for presentation to a duly authorized federal, state or local enforcement official.

(b) The provisions of § 391.41(b)(10) do not apply to a driver who was a participant in good standing on March 31, 1996, in a study concerning the operation of commercial motor vehicles by drivers with visual impairment in one eye, *provided:*

(1) The driver is physically examined every year, including an examination by an ophthalmologist or optometrist attesting to the fact the driver

(i) Is otherwise qualified under § 391.41; and

(ii) Continues to measure at least 20/40 (Snellen) in the better eye.

(2) The driver provides a copy of the ophthalmologist or optometrist report to the medical examiner at the time of the annual medical examination.

(3) The driver provides a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State or local enforcement official.

3. Section 391.43 is amended by redesignating paragraphs (e), (f) and (g) as paragraphs (f), (g) and (h), respectively and by adding a new paragraph (e) to read as follows:

§ 391.43 Medical examination; certificate of physical examination.

* * * * *

(e) Any driver operating under a limited exemption authorized by § 391.64 of this part shall furnish the medical examiner with a copy of the annual medical findings of the endocrinologist, ophthalmologist or optometrist, as required under that section. If the medical examiner finds the driver qualified under the limited exemption in § 391.64, such fact shall be noted on the Medical Examiner's Certificate.

* * * * *

4. Section 391.43 is further amended by inserting in the form following newly designated paragraph (h), a new entry reading ''____ Qualified by operation of 49 CFR 391.64'' immediately following the entry ''____ Medically unqualified unless driving within an exempt intracity zone''.

§ 319.45 [Amended]

5. Section 391.45 is amended by revising ''§ 391.2(d)'' in paragraph (b)(2) to read ''391.62, or only by operation of the exemption in § 391.64,''.

[FR Doc. 96–218 Filed 1–5–96; 8:45 am]
BILLING CODE 4910–22–P

Reader Aids

Federal Register

Vol. 61, No. 5

Mondy, January 8, 1996

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations

General Information, indexes and other finding aids	**202–523–5227**
Public inspection announcement line	**523–5215**

Laws

Public Laws Update Services (numbers, dates, etc.)	**523–6641**
For additional information	**523–5227**

Presidential Documents

Executive orders and proclamations	**523–5227**
The United States Government Manual	**523–5227**

Other Services

Electronic and on-line services (voice)	**523–4534**
Privacy Act Compilation	**523–3187**
TDD for the hearing impaired	**523–5229**

ELECTRONIC BULLETIN BOARD

Free Electronic Bulletin Board service for Public Law numbers, Federal Register finding aids, and list of documents on public inspection. **202–275–0920**

FAX-ON-DEMAND

You may access our Fax-On-Demand service. You only need a fax machine and there is no charge for the service except for long distance telephone charges the user may incur. The list of documents on public inspection and the daily Federal Register's table of contents are available using this service. The document numbers are 7050-Public Inspection list and 7051-Table of Contents list. The public inspection list will be updated immediately for documents filed on an emergency basis.

NOTE: YOU WILL ONLY GET A LISTING OF DOCUMENTS ON FILE AND NOT THE ACTUAL DOCUMENT. Documents on public inspection may be viewed and copied in our office located at 800 North Capitol Street, N.W., Suite 700. The Fax-On-Demand telephone number is: **301–713–6905**

FEDERAL REGISTER PAGES AND DATES, JANUARY

CFR PARTS AFFECTED DURING JANUARY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

REMINDERS

The rules and proposed rules in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

DEFENSE DEPARTMENT

Personnel:
- Conduct on Pentagon Reservation; published 1-8-96

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:
- Illinois; published 11-8-95
- New Mexico; published 11-8-95
- Ohio; published 12-7-95
- Texas; published 11-8-95

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Animal drugs, feeds, and related products:
- Sponsor name and address changes--
  - A.L. Pharma, Inc.; published 1-8-96

Public information:
- Communications with State and foreign government officials; published 12-8-95

LABOR DEPARTMENT

Federal transit law guidelines; published 12-7-95

PERSONNEL MANAGEMENT OFFICE

Prevailing rate systems
- Technical corrections and clarifications; published 12-7-95

TREASURY DEPARTMENT

Internal Revenue Service

Federal regulatory review; CFR parts removed; published 1-8-96¶

Comments Due Next Week

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Okra (frozen); grade standards; comments due by 1-8-96; published 12-7-95

Onions grown in--
- Texas; comments due by 1-11-96; published 12-12-95

Peas, field and black-eye (frozen); grade standards; comments due by 1-8-96; published 12-7-95

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:
- Bering Sea and Aleutian Islands groundfish; comments due by 1-10-96; published 12-11-95

COMMODITY FUTURES TRADING COMMISSION

Commodity Exchange Act:
- Futures commission merchants; minimum financial requirements, subordinated debt prepayment, and gross collection of exchange-set margin for omnibus accounts; comments due by 1-12-96; published 12-13-95

DEFENSE DEPARTMENT

Acquisition regulations:
- Ground and aircraft flight risk; comments due by 1-12-96; published 11-13-95
- Multiyear contracting and other miscellaneous provisions; comments due by 1-12-96; published 11-13-95

Federal Acquisition Regulation (FAR):
- Contingent fee representation; comments due by 1-12-96; published 11-13-95
- Employee stock ownership plans; comments due by 1-8-96; published 11-7-95

EDUCATION DEPARTMENT

Postsecondary education:
- Student support services program; clarification and simplification; comments due by 1-12-96; published 12-13-95

ENERGY DEPARTMENT

Federal Energy Regulatory Commission

Natural gas companies (Natural Gas Act):
- Outer Continental Shelf; gas pipeline facilities and services; agency's jurisdiction; comments due by 1-12-96; published 12-11-95

ENVIRONMENTAL PROTECTION AGENCY

Air pollutants, hazardous; national emission standards:
- Chromium emissions from hard and decorative chromium electroplating and anodizing tanks, etc.; comments due by 1-12-96; published 12-13-95

Air quality implementation plans; approval and promulgation; various States:
- Pennsylvania; comments due by 1-12-96; published 12-13-95
- South Carolina; comments due by 1-10-96; published 12-11-95
- Washington; comments due by 1-8-96; published 12-8-95

Air quality implementation plans; √A√approval and promulgation; various States; air quality planning purposes; designation of areas:
- Florida; comments due by 1-8-96; published 12-7-95
- New Jersey; comments due by 1-8-96; published 12-7-95

Clean Air Act:
- State operating permits programs--
  - California; comments due by 1-8-96; published 12-7-95
  - California; comments due by 1-8-96; published 12-7-95
  - California; comments due by 1-8-96; published 12-7-95
  - California; comments due by 1-8-96; published 12-7-95

Hazardous waste:
- Military munitions rule; explosives emergencies; redefinition of on-site; comments due by 1-8-96; published 11-8-95

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Imidacloprid; comments due by 1-12-96; published 12-13-95
Superfund program:
National oil and hazardous substances contingency plan--
National priorities list update; comments due by 1-11-96; published 12-20-95
Toxic substances:
Significant new uses--
Ethane, 1,1,1,2,2-pentafluoro-; comments due by 1-12-96; published 12-13-95

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:
Hearing aid compatible wireline telephones in workplaces, confined settings, etc.; comments due by 1-12-96; published 12-12-95
Radio stations; table of assignments:
Maine; comments due by 1-8-96; published 12-4-95
Television broadcasting:
Cable Television Consumer Protection and Competition Act of 1992--
Rate regulation; comments due by 1-12-96; published 12-11-95

FEDERAL EMERGENCY MANAGEMENT AGENCY

Flood insurance programs:
Insurance coverage and rates; comments due by 1-8-96; published 11-9-95

FEDERAL RESERVE SYSTEM

Transactions with affiliates; conformity of capital stock and surplus definition to unimpaired capital stock and surplus definition, etc.; comments due by 1-8-96; published 12-4-95

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Medical devices:
Medical device user facilities and manufacturers; adverse events reporting; certification and registration; comments due by 1-10-96; published 12-11-95

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

Indian lands program:
Abandoned mine land reclamation plan--
Hopi Tribe; comments due by 1-8-96; published 12-7-95
Permanent program and abandoned mine land reclamation plan submissions:
Colorado; comments due by 1-8-96; published 12-7-95

LABOR DEPARTMENT

Occupational Safety and Health Administration

Safety and health standards, etc.:
Respiratory protection; comments due by 1-8-96; published 11-7-95

PERSONNEL MANAGEMENT OFFICE

Federal claims collection:
Claims collections standards; delegation of authority; comments due by 1-8-96; published 11-9-95

POSTAL RATE COMMISSION

Practice and procedure rules:
Rate and classification changes; expedition, flexibility, and innovation; comments due by 1-8-96; published 12-18-95

TRANSPORTATION DEPARTMENT

Coast Guard

Anchorage regulations:
Louisiana; comments due by 1-12-96; published 11-13-95
International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW 78)
Comment request; comments due by 1-12-96; published 11-13-95
Ports and waterways safety:
Boon Island, ME; sunken vessel M/V EMPIRE KNIGHT; safety zone; comments due by 1-12-96; published 11-13-95

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:
de Havilland; comments due by 1-12-96; published 11-14-95
Airbus; comments due by 1-8-96; published 11-9-95
British Aerospace; comments due by 1-12-96; published 11-13-95
Fokker; comments due by 1-8-96; published 11-28-95
Hamilton; comments due by 1-8-96; published 11-8-95
Teledyne Continental Motors; comments due by 1-12-96; published 11-13-95

Airworthiness standards:

Special conditions--

Beech model 200 airplane, etc.; comments due by 1-8-96; published 12-7-95

Class E airspace; comments due by 1-8-96; published 12-1-95

Rulemaking petitions; summary and disposition; comments due by 1-8-96; published 11-8-95

TRANSPORTATION DEPARTMENT

Federal Highway Administration

Engineering and traffic operations:

Emergency relief program; comments due by 1-12-96; published 11-13-95

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Motor vehicle safety standards:

Child restraint systems--

Booster seat safety; comments due by 1-11-96; published 12-12-95

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription to all revised volumes is $883.00 domestic, $220.75 additional for foreign mailing.

Mail orders to the Superintendent of Documents, Attn: New Orders, P.O. Box 371954, Pittsburgh, PA 15250–7954. All orders must be accompanied by remittance (check, money order, GPO Deposit Account, VISA, or Master Card). Charge orders may be telephoned to the GPO Order Desk, Monday through Friday, at **(202) 512–1800** from 8:00 a.m. to 4:00 p.m. eastern time, or FAX your charge orders to **(202) 512-2233**.

Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869–026–00001–8)	$5.00	Jan. 1, 1995
3 (1994 Compilation and Parts 100 and 101)	(869–026–00002–6)	40.00	[1] Jan. 1, 1995
4	(869–026–00003–4)	5.50	Jan. 1, 1995
5 Parts:			
1–699	(869–026–00004–2)	23.00	Jan. 1, 1995
700–1199	(869–026–00005–1)	20.00	Jan. 1, 1995
1200–End, 6 (6 Reserved)	(869–026–00006–9)	23.00	Jan. 1, 1995
7 Parts:			
0–26	(869–026–00007–7)	21.00	Jan. 1, 1995
27–45	(869–026–00008–5)	14.00	Jan. 1, 1995
46–51	(869–026–00009–3)	21.00	Jan. 1, 1995
52	(869–026–00010–7)	30.00	Jan. 1, 1995
53–209	(869–026–00011–5)	25.00	Jan. 1, 1995
210–299	(869–026–00012–3)	34.00	Jan. 1, 1995
300–399	(869–026–00013–1)	16.00	Jan. 1, 1995
400–699	(869–026–00014–0)	21.00	Jan. 1, 1995
700–899	(869–026–00015–8)	23.00	Jan. 1, 1995
900–999	(869–026–00016–6)	32.00	Jan. 1, 1995
1000–1059	(869–026–00017–4)	23.00	Jan. 1, 1995
1060–1119	(869–026–00018–2)	15.00	Jan. 1, 1995
1120–1199	(869–026–00019–1)	12.00	Jan. 1, 1995
1200–1499	(869–026–00020–4)	32.00	Jan. 1, 1995
1500–1899	(869–026–00021–2)	35.00	Jan. 1, 1995
1900–1939	(869–026–00022–1)	16.00	Jan. 1, 1995
1940–1949	(869–026–00023–9)	30.00	Jan. 1, 1995
1950–1999	(869–026–00024–7)	40.00	Jan. 1, 1995
2000–End	(869–026–00025–5)	14.00	Jan. 1, 1995
8	(869–026–00026–3)	23.00	Jan. 1, 1995
9 Parts:			
1–199	(869–026–00027–1)	30.00	Jan. 1, 1995
200–End	(869–026–00028–0)	23.00	Jan. 1, 1995
10 Parts:			
0–50	(869–026–00029–8)	30.00	Jan. 1, 1995
51–199	(869–026–00030–1)	23.00	Jan. 1, 1995
200–399	(869–026–00031–0)	15.00	[6] Jan. 1, 1993
400–499	(869–026–00032–8)	21.00	Jan. 1, 1995
500–End	(869–026–00033–6)	39.00	Jan. 1, 1995
11	(869–026–00034–4)	14.00	Jan. 1, 1995
12 Parts:			
1–199	(869–026–00035–2)	12.00	Jan. 1, 1995
200–219	(869–026–00036–1)	16.00	Jan. 1, 1995
220–299	(869–026–00037–9)	28.00	Jan. 1, 1995
300–499	(869–026–00038–7)	23.00	Jan. 1, 1995
500–599	(869–026–00039–5)	19.00	Jan. 1, 1995
600–End	(869–026–00040–9)	35.00	Jan. 1, 1995
13	(869–026–00041–7)	32.00	Jan. 1, 1995
14 Parts:			
1–59	(869–026–00042–5)	33.00	Jan. 1, 1995
60–139	(869–026–00043–3)	27.00	Jan. 1, 1995
140–199	(869–026–00044–1)	13.00	Jan. 1, 1995
200–1199	(869–026–00045–0)	23.00	Jan. 1, 1995
1200–End	(869–026–00046–8)	16.00	Jan. 1, 1995
15 Parts:			
0–299	(869–026–00047–6)	15.00	Jan. 1, 1995
300–799	(869–026–00048–4)	26.00	Jan. 1, 1995
800–End	(869–026–00049–2)	21.00	Jan. 1, 1995
16 Parts:			
0–149	(869–026–00050–6)	7.00	Jan. 1, 1995
150–999	(869–026–00051–4)	19.00	Jan. 1, 1995
1000–End	(869–026–00052–2)	25.00	Jan. 1, 1995
17 Parts:			
1–199	(869–026–00054–9)	20.00	Apr. 1, 1995
200–239	(869–026–00055–7)	24.00	Apr. 1, 1995
240–End	(869–026–00056–5)	30.00	Apr. 1, 1995
18 Parts:			
1–149	(869–026–00057–3)	16.00	Apr. 1, 1995
150–279	(869–026–00058–1)	13.00	Apr. 1, 1995
280–399	(869–026–00059–0)	13.00	Apr. 1, 1995
400–End	(869–026–00060–3)	11.00	Apr. 1, 1995
19 Parts:			
1–140	(869–026–00061–1)	25.00	Apr. 1, 1995
141–199	(869–026–00062–0)	21.00	Apr. 1, 1995
200–End	(869–026–00063–8)	12.00	Apr. 1, 1995
20 Parts:			
1–399	(869–026–00064–6)	20.00	Apr. 1, 1995
400–499	(869–026–00065–4)	34.00	Apr. 1, 1995
500–End	(869–026–00066–2)	34.00	Apr. 1, 1995
21 Parts:			
1–99	(869–026–00067–1)	16.00	Apr. 1, 1995
100–169	(869–026–00068–9)	21.00	Apr. 1, 1995
170–199	(869–026–00069–7)	22.00	Apr. 1, 1995
200–299	(869–026–00070–1)	7.00	Apr. 1, 1995
300–499	(869–026–00071–9)	39.00	Apr. 1, 1995
500–599	(869–026–00072–7)	22.00	Apr. 1, 1995
600–799	(869–026–00073–5)	9.50	Apr. 1, 1995
800–1299	(869–026–00074–3)	23.00	Apr. 1, 1995
1300–End	(869–026–00075–1)	13.00	Apr. 1, 1995
22 Parts:			
1–299	(869–026–00076–0)	33.00	Apr. 1, 1995
300–End	(869–026–00077–8)	24.00	Apr. 1, 1995
23	(869–026–00078–6)	22.00	Apr. 1, 1995
24 Parts:			
0–199	(869–026–00079–4)	40.00	Apr. 1, 1995
200–219	(869–026–00080–8)	19.00	Apr. 1, 1995
220–499	(869–026–00081–6)	23.00	Apr. 1, 1995
500–699	(869–026–00082–4)	20.00	Apr. 1, 1995
700–899	(869–026–00083–2)	24.00	Apr. 1, 1995
900–1699	(869–026–00084–1)	24.00	Apr. 1, 1995
1700–End	(869–026–00085–9)	17.00	Apr. 1, 1995
25	(869–026–00086–7)	32.00	Apr. 1, 1995
26 Parts:			
§§ 1.0-1–1.60	(869–026–00087–5)	21.00	Apr. 1, 1995
§§ 1.61–1.169	(869–026–00088–3)	34.00	Apr. 1, 1995
§§ 1.170–1.300	(869–026–00089–1)	24.00	Apr. 1, 1995
§§ 1.301–1.400	(869–026–00090–5)	17.00	Apr. 1, 1995
§§ 1.401–1.440	(869–026–00091–3)	30.00	Apr. 1, 1995
§§ 1.441-1.500	(869-026-00092-1)	22.00	Apr. 1, 1995
§§ 1.501–1.640	(869–026–00093–0)	21.00	Apr. 1, 1995
§§ 1.641–1.850	(869–026–00094–8)	25.00	Apr. 1, 1995
§§ 1.851–1.907	(869–026–00095–6)	26.00	Apr. 1, 1995
§§ 1.908–1.1000	(869–026–00096–4)	27.00	Apr. 1, 1995
§§ 1.1001–1.1400	(869–026–00097–2)	25.00	Apr. 1, 1995
§§ 1.1401–End	(869–026–00098–1)	33.00	Apr. 1, 1995
2–29	(869–026–00099–9)	25.00	Apr. 1, 1995
30–39	(869–026–00100–6)	18.00	Apr. 1, 1995
40–49	(869–026–00101–4)	14.00	Apr. 1, 1995

Title	Stock Number	Price	Revision Date
50–299	(869–026–00102–2)	14.00	Apr. 1, 1995
300–499	(869–026–00103–1)	24.00	Apr. 1, 1995
500–599	(869–026–00104–9)	6.00	[4] Apr. 1, 1990
600–End	(869–026–00105–7)	8.00	Apr. 1, 1995
27 Parts:			
1–199	(869–026–00106–5)	37.00	Apr. 1, 1995
200–End	(869–026–00107–3)	13.00	[8] Apr. 1, 1994
28 Parts:			
1-42	(869–026–00108–1)	27.00	July 1, 1995
43-end	(869-026-00109-0)	22.00	July 1, 1995
29 Parts:			
0–99	(869–026–00110–3)	21.00	July 1, 1995
100–499	(869–026–00111–1)	9.50	July 1, 1995
500–899	(869–026–00112–0)	36.00	July 1, 1995
900–1899	(869–026–00113–8)	17.00	July 1, 1995
1900–1910 (§§ 1901.1 to 1910.999)	(869–026–00114–6)	33.00	July 1, 1995
1910 (§§ 1910.1000 to end)	(869–026–00115–4)	22.00	July 1, 1995
1911–1925	(869–026–00116–2)	27.00	July 1, 1995
1926	(869–026–00117–1)	35.00	July 1, 1995
1927–End	(869–026–00118–9)	36.00	July 1, 1995
30 Parts:			
1–199	(869–026–00119–7)	25.00	July 1, 1995
200–699	(869–026–00120–1)	20.00	July 1, 1995
700–End	(869–026–00121–9)	30.00	July 1, 1995
31 Parts:			
0–199	(869–026–00122–7)	15.00	July 1, 1995
200–End	(869–026–00123–5)	25.00	July 1, 1995
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–026–00124–3)	32.00	July 1, 1995
191–399	(869–026–00125–1)	38.00	July 1, 1995
400–629	(869–026–00126–0)	26.00	July 1, 1995
630–699	(869–026–00127–8)	14.00	[5] July 1, 1991
700–799	(869–026–00128–6)	21.00	July 1, 1995
800–End	(869–026–00129–4)	22.00	July 1, 1995
33 Parts:			
1–124	(869–026–00130–8)	20.00	July 1, 1995
125–199	(869–026–00131–6)	27.00	July 1, 1995
200–End	(869–026–00132–4)	24.00	July 1, 1995
34 Parts:			
1–299	(869–026–00133–2)	25.00	July 1, 1995
300–399	(869–026–00134–1)	21.00	July 1, 1995
400–End	(869–026–00135–9)	37.00	July 5, 1995
35	(869–026–00136–7)	12.00	July 1, 1995
36 Parts			
1–199	(869–026–00137–5)	15.00	July 1, 1995
200–End	(869–026–00138–3)	37.00	July 1, 1995
37	(869–026–00139–1)	20.00	July 1, 1995
38 Parts:			
0–17	(869–026–00140–5)	30.00	July 1, 1995
18–End	(869–026–00141–3)	30.00	July 1, 1995
39	(869–026–00142–1)	17.00	July 1, 1995
40 Parts:			
1–51	(869–026–00143–0)	40.00	July 1, 1995
52	(869–026–00144–8)	39.00	July 1, 1995
53–59	(869–026–00145–6)	11.00	July 1, 1995
60	(869-026-00146-4)	36.00	July 1, 1995
61–71	(869–026–00147–2)	36.00	July 1, 1995
*72–85	(869–026–00148–1)	41.00	July 1, 1995
86	(869–026–00149–9)	40.00	July 1, 1995
87–149	(869–026–00150–2)	41.00	July 1, 1995
150–189	(869–026–00151–1)	25.00	July 1, 1995
190–259	(869–026–00152–9)	17.00	July 1, 1995
260–299	(869–026–00153–7)	40.00	July 1, 1995
300–399	(869–026–00154–5)	21.00	July 1, 1995
400–424	(869–026–00155–3)	26.00	July 1, 1995
425–699	(869–026–00156–1)	30.00	July 1, 1995
700–789	(869–026–00157–0)	25.00	July 1, 1995
790–End	(869–026–00158–8)	15.00	July 1, 1995
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–026–00159–6)	9.50	July 1, 1995
101	(869–026–00160–0)	29.00	July 1, 1995
102–200	(869–026–00161–8)	15.00	July 1, 1995
201–End	(869–026–00162–6)	13.00	July 1, 1995
42 Parts:			
1–399	(869–022–00160–4)	24.00	Oct. 1, 1994
400–429	(869–022–00161–2)	26.00	Oct. 1, 1994
430–End	(869–022–00162–1)	36.00	Oct. 1, 1994
43 Parts:			
1–999	(869–022–00163–9)	23.00	Oct. 1, 1994
1000–3999	(869–022–00164–7)	31.00	Oct. 1, 1994
4000–End	(869–026–00168–5)	15.00	Oct. 1, 1995
44	(869–022–00166–3)	27.00	Oct. 1, 1994
45 Parts:			
1–199	(869–022–00167–1)	22.00	Oct. 1, 1994
200–499	(869–026–00171–5)	14.00	Oct. 1, 1995
500–1199	(869–026–00172–3)	23.00	Oct. 1, 1995
1200–End	(869–022–00170–1)	26.00	Oct. 1, 1994
46 Parts:			
1–40	(869–022–00171–0)	20.00	Oct. 1, 1994
41–69	(869–022–00172–8)	16.00	Oct. 1, 1994
70–89	(869–022–00173–6)	8.50	Oct. 1, 1994
90–139	(869–022–00174–4)	15.00	Oct. 1, 1994
140–155	(869–022–00175–2)	12.00	Oct. 1, 1994
156–165	(869–022–00176–1)	17.00	[7] Oct. 1, 1993
166–199	(869–022–00177–9)	17.00	Oct. 1, 1994
200–499	(869–022–00178–7)	21.00	Oct. 1, 1994
500–End	(869–022–00179–5)	15.00	Oct. 1, 1994
47 Parts:			
0–19	(869–022–00180–9)	25.00	Oct. 1, 1994
*20–39	(869–026–00184–7)	21.00	Oct. 1, 1995
40–69	(869–022–00182–5)	14.00	Oct. 1, 1994
70–79	(869–022–00183–3)	24.00	Oct. 1, 1994
80–End	(869–022–00184–1)	26.00	Oct. 1, 1994
48 Chapters:			
1 (Parts 1–51)	(869–022–00185–0)	36.00	Oct. 1, 1994
1 (Parts 52–99)	(869–022–00186–8)	23.00	Oct. 1, 1994
2 (Parts 201–251)	(869–022–00187–6)	16.00	Oct. 1, 1994
2 (Parts 252–299)	(869–022–00188–4)	13.00	Oct. 1, 1994
3–6	(869–022–00189–2)	23.00	Oct. 1, 1994
7–14	(869–022–00190–6)	30.00	Oct. 1, 1994
15–28	(869–022–00191–4)	32.00	Oct. 1, 1994
29–End	(869–022–00192–2)	17.00	Oct. 1, 1994
49 Parts:			
1–99	(869–026–00196–1)	25.00	Oct. 1, 1995
100–177	(869–022–00194–9)	30.00	Oct. 1, 1994
178–199	(869–022–00195–7)	21.00	Oct. 1, 1994
200–399	(869–022–00196–5)	30.00	Oct. 1, 1994
400–999	(869–022–00197–3)	35.00	Oct. 1, 1994
1000–1199	(869–026–00201–1)	18.00	Oct. 1, 1995
1200–End	(869–026–00202–9)	15.00	Oct. 1, 1995
50 Parts:			
1–199	(869–022–00200–7)	25.00	Oct. 1, 1994
200–599	(869–022–00201–5)	22.00	Oct. 1, 1994
600–End	(869–022–00202–3)	27.00	Oct. 1, 1994

Title	Stock Number	Price	Revision Date
CFR Index and Findings Aids	(869–026–00053–1)	36.00	Jan. 1, 1995
Complete 1996 CFR set		883.00	1996
Microfiche CFR Edition:			
Subscription (mailed as issued)		264.00	1996
Individual copies		1.00	1996
Complete set (one-time mailing)		264.00	1995
Complete set (one-time mailing)		244.00	1994
Complete set (one-time mailing)		223.00	1993

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1995. The CFR volume issued April 1, 1990, should be retained.

[5] No amendments to this volume were promulgated during the period July 1, 1991 to June 30, 1995. The CFR volume issued July 1, 1991, should be retained.

[6] No amendments to this volume were promulgated during the period January 1, 1993 to December 31, 1994. The CFR volume issued January 1, 1993, should be retained.

[7] No amendments to this volume were promulgated during the period October 1, 1993, to September 30, 1994. The CFR volume issued October 1, 1993, should be retained.

[8] No amendments to this volume were promulgated during the period April 1, 1994 to March 31, 1995. The CFR volume issued April 1, 1994, should be retained.