AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

10-19-89
Vol. 54 No. 201

federal register

Thursday
October 19, 1989

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

OFFICIAL BUSINESS
Penalty for private use, $300

SECOND CLASS NEWSPAPER
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

10-19-89
Vol. 54 No. 201
Pages 42945-43032

federal register

Thursday
October 19, 1989

Briefing on How To Use the Federal Register
For information on briefing in New York City, see announcement on the inside cover of this issue.

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

WHO: The Office of the Federal Register.

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

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

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

NEW YORK, NY

WHEN: October 24; at 1:00 p.m.
WHERE: Room 305A,
26 Federal Plaza,
New York, NY.
RESERVATIONS: Call Arlene Shapiro or Stephen Colon at the New York Federal Information Center. 212–264–4810.

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 77

[Docket No. 89-145]

Tuberculosis in Cattle and Bison; State Designation

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: We are affirming without change an interim rule that amended the regulations governing the interstate movement of cattle and bison because of tuberculosis by raising the designation of Florida from a modified accredited State to an accredited-free State.

EFFECTIVE DATE: November 20, 1989.

FOR FURTHER INFORMATION CONTACT: Dr. Ralph L. Hosker, Senior Staff Veterinarian, Cattle Diseases and Surveillance Staff, VS, APHIS, USDA, Room 729, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-5533.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule published in the Federal Register and effective May 16, 1989 (54 FR 21048-21049, Docket Number 89-081), we amended the tuberculosis regulations contained in 9 CFR part 77 by removing Florida from the list of modified accredited States and adding it to the list of accredited-free States.

Comments on the interim rule were required to be received on or before July 17, 1989. We did not receive any comments. The facts in the interim rule still provide a basis for the rule.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

Cattle and bison moved interstate are moved for slaughter, for use as breeding stock, or for feeding. Changing the status of Florida may affect the marketability of cattle and bison from the State since some prospective cattle and bison buyers prefer to buy cattle and bison from accredited-free States. This may result in some beneficial economic impact on some small entities. However, based on our experience in similar designations of other States, the impact should not be significant.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, Subpart V.)

List of Subjects in 9 CFR Part 77

Animal diseases, Bison, Cattle, Transportation, Tuberculosis.

PART 77—TUBERCULOSIS

Accordingly, we are adopting as a final rule, without change, the interim rule amending 9 CFR 77.1 that was published at 54 FR 21048-21049 on May 16, 1989.

Authority: 21 U.S.C. 111, 114, 114a, 115-117, 120, 121, 134b, 134f; 7 CFR 2.17, 2.51 and 371.2(d).

Done in Washington, DC, this 13th day of October 1989.

Larry B. Slagle,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 89-24612 Filed 10-18-89; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 37

[Docket No. RM88-25-000]

Generic Determination of Rate of Return on Common Equity for Public Utilities

October 13, 1989.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of benchmark rate of return on common equity for public utilities.

SUMMARY: In accordance with § 37.5 of its regulations, the Federal Energy Regulatory Commission, by its designee, the Director of the Office of Economic Policy, issues the update to the benchmark rate of return on common equity applicable to rate filings made during the period November 1, 1989 through January 31, 1990. This benchmark rate is set at 12.04 percent.

EFFECTIVE DATE: November 1, 1989.

FOR FURTHER INFORMATION CONTACT: Marvin Rosenberg, Office of Economic Policy, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357-8283.

SUPPLEMENTARY INFORMATION:

Notice of Benchmark Rate of Return on Common Equity for Public Utilities

Issued October 13, 1989.

On December 19, 1988, the Federal Energy Regulatory Commission (Commission) issued a final rule (Order No. 510) concerning the generic determination of the rate of return on common equity for public utilities.[1] In several earlier rulemaking proceedings, the Commission established a discounted cash flow (DCF) formula to determine the average cost of common equity and a quarterly indexing procedure to calculate benchmark rates of return on common equity for public utilities and codified the formula and procedure at § 37.9 of its regulations.[2] In Order No. 510, the Commission determined that 4.3 percent is an appropriate expected annual dividend growth rate for use in the quarterly indexing procedure during the 12 months beginning February 1, 1989 and that 0.03 percent is an appropriate floatation cost adjustment factor for that period.

The Commission, by its designee, the Director of the Office of Economic Policy, uses the quarterly indexing procedure to determine that the benchmark rate of return on common equity applicable to rate filings made during the period November 1, 1989 through January 31, 1990, is 12.04 percent.

Section 37.9 of the Commission's regulations requires that the quarterly benchmark rate of return be set equal to the average cost of common equity for the jurisdictional operations of public utilities. This average cost is based on the average of the median dividend yields for the two most recent calendar quarters for a sample of 98 utilities.[3] The average yield is used in the following formula with fixed adjustment factors (determined in the most recent annual proceeding) to determine the cost rate:

$$k_t = 1.02\ Y_t + 4.33$$

where k_t is the average cost of common equity and Y_t is the average dividend yield.

The attached appendix provides the supporting data for this update. The median dividend yields for the sample of utilities for the second and third quarters of 1989 are 7.83 percent and 7.28, respectively. The average yield for those two quarters is 7.56 percent. Use of the average dividend yield in the above formula produces an average cost of common equity of 12.04 percent.

This notice supplements the generic rate of return rule announced in Order No. 510, issued December 19, 1988 and effective on February 1, 1989.

List of Subjects in 18 CFR Part 37

Electric power rates, Electric utilities, Reporting and recordkeeping requirements.

In consideration of the foregoing, the Commission amends part 37, chapter I, title 18 of the Code of Federal Regulations, as set forth below, effective November 1, 1989.

Richard P. O'Neill,

Director, Office of Economic Policy.

PART 37—GENERIC DETERMINATION OF RATE OF RETURN ON COMMON EQUITY FOR PUBLIC UTILITIES

1. The authority citation for part 37 continues to read as follows:

Authority: Federal Power Act, 16 U.S.C. 791a–825r (1982); Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982).

2. In § 37.9, paragraph (d) is revised to read as follows:

§ 37.9 Quarterly indexing procedure.

* * * * *

(d) *Table of Quarterly Benchmark Rates of Return.* The following table presents the quarterly benchmark rates of return on common equity:

Benchmark applicability period (t)	Dividend increase adjustment factor (a)	Expected growth adjustment factor (b)	Current dividend yield (Y_t)	Cost of common equity (k_t)	Benchmark rate of return
2/1/86 to 4/30/86	1.02	4.54	9.03	13.75	13.75
5/1/86 to 7/31/86	1.02	4.54	8.37	13.08	13.25
8/1/86 to 10/31/86	1.02	4.54	7.49	12.18	12.75
11/1/86 to 1/31/87	1.02	4.54	6.75	11.43	12.25
2/1/87 to 4/30/87	1.02	4.63	6.44	11.20	11.20
5/1/87 to 7/31/87	1.02	4.63	6.54	11.30	11.30
8/1/87 to 10/31/87	1.02	4.63	6.97	11.74	11.74
11/1/87 to 1/31/88	1.02	4.63	7.49	12.27	12.27
2/1/88 to 4/30/88	1.02	4.36	7.90	12.42	12.42
5/1/88 to 7/31/88	1.02	4.36	7.99	12.51	12.51
8/1/88 to 10/31/88	1.02	4.36	7.84	12.36	12.36
11/1/88 to 1/31/89	1.02	4.36	7.92	12.44	12.44
2/1/89 to 4/30/89	1.02	4.33	7.89	12.38	12.38
5/1/89 to 7/31/89	1.02	4.33	7.95	12.44	12.44
8/1/89 to 10/31/89	1.02	4.33	7.94	12.43	12.43
11/1/89 to 1/31/90	1.02	4.33	7.56	12.04	12.04

[1] Generic Determination of Rate of Return on Common Equity for Public Utilities, Order No. 510, 53 FR 51,752 (Dec. 23, 1988), 45 FERC ¶ 61,452 (Dec. 19, 1988).

[2] 18 CFR 37.9 (1988). The most recent adoption of the DCF formula and quarterly indexing procedure came in Order No. 489, 53 FR 3342 (Feb. 5, 1988).

[3] As a result of the acquisition of Utah Power and Light by PacifiCorp, the Commission has reduced the number of companies in the sample to 96. It has made this change in accordance with the criteria for inclusion in the sample specified in 18 CFR 37.9(c) (1988).

Middle South Utilities, changed its name to Entergy Corp. on May 19, 1989. Duquesne Light Co., changed its name to DQE, Inc. on July 7, 1989.

Note: The Appendix will not be published in Code of Federal Regulations

Appendix

Exhibit No.	Title
1	Initial sample of utilities.
2	Utilities excluded from the sample for the indicated quarter due to either zero dividends or a reduction in dividends for this quarter or the prior three quarters.
3	Annualized dividend yields for the indicated quarter for utilities retained in the sample.
Source of Data	Standard and Poor's Compustat Services, Inc., Utility COMPUSTAT II Quarterly Data Base.

Exhibit 1—Sample of Utilities

Utility	Ticker symbol	Industry code
Allegheny Power System	AYP	4911
American Electric Power	AEP	4911
Atlantic Energy Inc	ATE	4911
Baltimore Gas & Electric	BGE	4931
Black Hills Corp	BKH	4911
Boston Edison Co	BSE	4911
Carolina Power & Light	CPL	4911
Centerior Energy Corp	CX	4911
Central & South West Corp	CSR	4911
Central Hudson Gas & Elec	CNH	4931
Central Ill Public Service	CIP	4931
Central Louisiana Electric	CNL	4911
Central Maine Power Co	CTP	4911
Central Vermont Public Service.	CV	4911
Citcorp Inc	CER	4931
Cincinnati Gas & Electric	CIN	4931
CMS Energy Corp	CMS	4931
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DPL Inc	DPL	4931
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Duke Power Co	DUK	4911
Eastern Utilities Assoc	EUA	4911
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St. Joseph Light & Power	SAJ	4931
Teco Energy Inc	TE	4911
Texas Utilities Co	TXU	4911
TNP Enterprises Inc	TNP	4911
Tucson Electric Power Co	TEP	4911
Union Electric Co	UEP	4911
United Illuminating Co	UIL	4911
Unitil Corp	UTL	4911
Utilicorp United Inc	UCU	4931
Washington Water Power	WWP	4931
Wisconsin Energy Corp	WEC	4931
Wisconsin Public Service	WPS	4931
WPL Holdings Inc	WPH	4931

N=98

Exhibit 2—Utilities Excluded From the Sample for the Indicated Quarter Due to Either Zero Dividends or a Cut in the Dividends for This Quarter or the Prior Three Quarters

Year=89; Quarter=3

Ticker symbol	Utility	Reason for exclusion
CMS	CMS Energy Corp.	Dividend rate was zero for quarter Calendar 89Q3.
GSU	Gulf States Utilities Co.	Dividend rate was zero for quarter Calendar 89Q3.
IPC	Illinois Power Co.	Dividend rate was zero for quarter Calendar 89Q3.
LIL	Long Island Lighting.	Dividend rate was zero for quarter Calendar 89Q2.
NMK	Niagara Mohawk Power.	Dividend rate was zero for quarter Calendar 89Q3.
PNW	Pinnacle West Capital Corp.	Dividend rate was reduced for the quarter Calendar 89Q1.
PIN	PSI Holdings Inc.	Dividend rate was zero for quarter Calendar 88Q4.
PNH	Public Service Co. of NH.	Dividend rate was zero for quarter Calendar 89Q3.
PNM	Public Service Co. of N ME.	Dividend rate was zero for the quarter Calendar 89Q3.
TEP	Tucson Electric Power Co.	Dividend rate was reduced for the quarter Calendar 89Q3.

N=10

Exhibit 3—Annualized Dividend Yields for the Indicated Quarter for Utilities Retained in the Sample

Year = 89; Quarter = 3

Ticker symbol	Price, 1st month of qtr—High	Price, 1st month of qtr—Low	Price, 2nd month of qtr—High	Price, 2nd month of qtr—Low	Price, 3rd month of qtr—High	Price, 3rd month of qtr—Low	Average price	Dividends annual rate	Annualized dividend yield
AEP	31.000	27.625	31.000	29.375	30.500	29.625	29.854	2.450	8.207
ATE	37.750	35.500	33.125	36.625	37.500	35.750	36.875	2.880	7.810
AYP	40.875	37.500	40.875	39.250	40.250	38.500	39.542	3.080	7.789

EXHIBIT 3—ANNUALIZED DIVIDEND YIELDS FOR THE INDICATED QUARTER FOR UTILITIES RETAINED IN THE SAMPLE—Continued

Year = 89; Quarter = 3

Ticker symbol	Price, 1st month of qtr—High	Price, 1st month of qtr—Low	Price, 2nd month of qtr—High	Price, 2nd month of qtr—Low	Price, 3rd month of qtr—High	Price, 3rd month of qtr—Low	Average price	Dividends annual rate	Annualized dividend yield
BGE	33.625	31.250	33.625	31.125	33.250	31.125	32.333	2.100	6.495
BKH	29.875	27.500	29.750	27.875	29.000	27.625	28.604	1.520	5.314
BSE	18.000	16.875	17.750	16.875	19.250	17.250	17.667	1.820	10.302
CER	38.000	36.000	38.000	35.625	37.250	35.375	36.708	2.460	6.701
CES	35.750	33.000	35.750	33.875	35.000	33.625	34.500	2.800	8.116
CIN	29.250	27.500	28.875	28.000	29.250	28.250	28.521	2.320	8.134
CIP	24.000	22.000	24.000	22.750	23.250	22.625	23.104	1.800	7.791
CNH	23.000	22.125	23.250	22.500	23.250	22.750	22.812	1.760	7.715
CNL	34.500	33.250	34.750	33.625	34.250	33.000	33.896	2.440	7.199
CPL	42.375	39.500	43.250	40.750	44.500	43.000	42.229	2.840	6.725
CSR	36.500	34.000	36.750	35.250	36.500	35.000	35.667	2.600	7.290
CTP	19.875	18.375	20.250	18.625	19.500	18.500	19.187	1.520	7.922
CV	27.625	26.125	27.500	25.875	27.500	26.125	26.792	2.040	7.614
CWE	39.125	37.500	38.625	36.375	38.750	36.750	37.854	3.000	7.925
CX	18.375	17.250	19.000	17.875	19.125	18.500	18.354	1.600	8.717
D	46.125	43.750	46.125	43.500	44.375	43.000	44.479	3.200	7.194
DEW	19.750	18.625	20.000	18.875	19.625	19.000	19.312	1.500	7.767
DPL	27.750	26.125	28.125	26.500	28.000	26.000	27.083	2.240	8.271
DQE	22.750	20.500	23.250	21.500	23.500	22.125	22.271	1.280	5.747
DTE	21.500	20.625	22.125	20.875	22.625	21.250	21.500	1.680	7.814
DUK	52.625	49.500	53.250	49.750	51.875	50.125	51.187	3.120	6.095
ED	27.000	25.125	28.250	25.375	25.875	24.500	26.021	1.720	6.610
EDE	30.000	29.250	30.875	29.500	30.500	29.375	29.917	2.220	7.421
ETR	21.125	19.125	21.875	20.750	23.000	21.125	21.167	1.000	4.724
EUA	37.000	35.250	37.000	35.750	36.750	35.750	36.250	2.500	6.897
FGE	34.500	32.750	34.750	32.625	34.000	32.875	33.583	2.000	5.955
FPC	38.000	35.375	38.625	36.375	36.875	36.000	36.875	2.560	6.942
FPL	32.875	30.750	33.250	31.125	32.625	30.875	31.917	2.280	7.144
GMP	25.500	24.125	25.500	24.125	25.375	24.000	24.771	1.980	7.993
GPU	41.500	39.625	41.875	39.625	41.250	40.125	40.667	2.200	5.410
HE	35.625	32.750	35.500	33.375	34.000	32.875	34.021	2.040	5.996
HOU	34.875	31.375	34.875	32.500	34.125	33.375	33.521	2.960	8.830
IDA	27.625	26.125	28.625	27.125	27.625	26.625	27.292	1.860	6.815
IEL	25.750	24.250	26.750	25.250	26.375	24.875	25.542	2.040	7.987
IOR	20.500	18.875	20.625	19.500	19.875	19.250	19.771	1.680	8.497
IPL	25.250	24.125	25.500	24.625	25.000	23.875	24.729	1.720	6.955
IPW	25.750	24.000	25.750	23.625	24.750	23.625	24.583	2.000	8.136
IWG	43.125	41.250	42.750	41.750	42.875	42.000	42.292	3.260	7.708
KAN	24.750	23.250	25.375	23.750	24.500	23.500	24.187	1.760	7.276
KGE	24.250	22.250	23.250	22.250	23.000	21.500	22.750	1.600	7.033
KLT	35.750	32.625	35.750	33.250	34.375	33.000	34.125	2.560	7.502
KU	20.750	19.625	20.875	19.625	20.125	19.500	20.083	1.400	6.971
LOU	39.250	36.375	39.500	38.000	39.125	37.125	38.229	2.780	7.272
MAP	23.000	22.125	23.750	22.125	23.000	21.125	22.521	1.600	7.105
MPL	26.750	25.125	27.625	25.625	26.500	25.125	26.125	1.780	6.813
MTP	40.875	39.125	41.500	39.625	39.875	38.250	39.875	2.760	6.922
MWE	20.750	19.750	20.875	20.000	20.625	19.750	20.292	1.600	7.885
NES	27.750	25.875	27.875	26.125	27.125	25.625	26.729	2.040	7.632
NGE	27.750	26.125	27.500	25.875	26.500	25.875	26.604	2.040	7.668
NI	18.750	17.125	19.000	18.375	18.875	18.375	18.417	0.840	4.561
NPT	18.250	17.250	17.750	14.625	15.125	14.875	16.312	1.500	9.195
NSP	37.500	35.375	38.375	36.000	37.500	36.000	36.792	2.220	6.034
NU	22.250	20.500	23.000	21.125	21.500	20.750	21.521	1.760	8.178
NVP	22.500	21.375	23.000	21.500	22.750	21.500	22.104	1.560	7.057
OEC	22.375	21.125	23.000	22.000	22.250	21.250	22.000	1.960	8.909
OGE	36.625	34.875	37.250	35.625	36.375	35.875	36.104	2.380	6.592
ORU	30.500	29.750	30.875	29.625	30.000	29.000	29.958	2.300	7.677
PCG	21.500	19.875	21.625	20.125	21.000	19.500	20.604	1.400	6.795
PE	23.875	22.375	24.500	21.625	22.625	21.250	22.708	2.200	9.688
PEG	28.125	26.500	28.500	26.625	26.875	25.875	27.083	2.040	7.532
PGN	24.875	24.000	25.500	24.375	24.750	22.875	24.396	1.960	8.034
POM	22.125	21.125	22.750	21.125	22.125	21.250	21.750	1.460	6.713
PPL	41.125	38.250	41.250	40.125	40.875	40.000	40.271	2.860	7.102
PPW	41.750	39.750	41.875	40.375	41.375	40.000	40.854	2.760	6.756
PSD	21.500	19.750	22.125	21.000	21.875	21.375	21.271	1.760	8.274
PSR	25.000	22.750	25.000	23.750	25.375	24.750	24.437	2.000	8.184

ANNUALIZED DIVIDEND YIELDS FOR THE INDICATED QUARTER FOR UTILITIES RETAINED IN THE SAMPLE—Continued

Year = 89; Quarter = 3

Ticker symbol	Price, 1st month of qtr—High	Price, 1st month of qtr—Low	Price, 2nd month of qtr—High	Price, 2nd month of qtr—Low	Price, 3rd month of qtr—High	Price, 3rd month of qtr—Low	Average price	Dividends annual rate	Annualized dividend yield
RGS	21.375	19.625	20.875	19.750	21.375	19.125	20.354	1.500	7.369
SAJ	23.000	22.250	23.000	22.000	22.625	21.875	22.458	1.520	6.768
SCE	37.750	34.500	37.875	35.375	36.875	35.625	36.333	2.560	7.046
SGC	35.125	33.250	35.500	34.000	34.250	32.750	34.146	2.460	7.204
SDO	42.000	40.000	42.875	40.625	41.375	40.750	41.271	2.700	6.542
SIG	30.750	29.375	32.125	29.375	29.750	28.500	29.979	1.800	6.004
SO	28.250	26.250	28.125	26.250	27.875	27.000	27.292	2.140	7.841
SRP	25.625	24.375	25.500	23.750	24.375	23.750	24.562	1.800	7.328
TE	26.875	25.250	27.375	25.625	26.750	25.500	26.229	1.520	5.795
TNP	22.125	20.625	22.125	20.750	21.375	20.625	21.271	1.550	7.287
TXU	33.875	30.625	34.000	31.625	32.625	31.250	32.333	2.920	9.031
UCU	20.750	18.875	21.250	20.000	20.500	18.875	20.042	1.440	7.185
UEP	27.500	26.125	27.750	26.375	27.375	26.625	26.958	2.000	7.419
UIL	29.000	27.000	31.375	28.375	30.750	27.000	28.917	2.320	8.023
UTL	37.500	36.750	36.875	35.875	35.750	34.625	36.229	2.080	5.741
WEC	30.375	28.250	30.500	28.750	29.750	28.375	29.333	1.660	5.659
WPH	23.875	23.125	24.500	23.125	23.500	22.500	23.438	1.680	7.168
WPS	24.250	22.750	24.875	22.750	23.625	22.250	23.417	1.620	6.918
WWP	30.250	29.375	30.750	29.000	30.250	29.125	29.792	2.480	8.324

N=88

[FR Doc. 89-24622 Filed 10-18-89; 8:45 am]
BILLING CODE 6717-01-M

RAILROAD RETIREMENT BOARD

20 CFR Part 222

RIN 3220-AA57

Family Relationships

AGENCY: Railroad Retirement Board.

ACTION: Final rule.

SUMMARY: The Railroad Retirement Board hereby amends its regulations by adding a new part 222 which defines the relationships to a railroad employee created by marriage, divorce, birth, adoption, or dependency which a claimant may have to establish in order to qualify for benefits under the Railroad Retirement Act.

EFFECTIVE DATE: October 19, 1989.

ADDRESS: Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Thomas W. Sadler, General Attorney, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, (312) 751-4513 (FTS 386-4513).

SUPPLEMENTARY INFORMATION: The Railroad Retirement Act (45 U.S.C. 231 *et seq.*) provides a system of retirement and disability benefits for railroad employees, their spouses, children, and survivors who meet certain eligibility requirements under that Act. The Railroad Retirement Board's regulations regarding family relationships are currently located in parts 216 and 219. These regulations were issued in February 1982 and do not take into account the categories of beneficiaries which were added by the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35); namely, divorced spouses, surviving divorced spouses and remarried widow(er)s.

The Board published part 222 as a proposed rule on June 6, 1989 (54 FR 24196-24203) and invited comments by August 7, 1989. No comments were received, and no changes have been made in the proposed regulation.

The final regulation incorporates the provisions regarding family relationships currently contained in parts 216 and 219 into one new part 222, an adds provisions pertaining to the classes of beneficiaries created by the 1981 amendments to the Railroad Retirement Act. The phrase "family relationship" generally pertains to a relationship to a railroad employee which has been created by marriage, divorce, birth, adoption, or dependency. Both parts 216 and 219 are also currently under extensive revision and when published as final rules will reflect that all definitions regarding family relationships are now contained in part 222.

The Bureau of Law within the Railroad Retirement Board is currently involved in a project to revise all regulations for which the agency has responsibility. It is the aim of the project to incorporate the latest legislative, legal and policy changes while using plain language in order to make the regulations easier to use and understand. As a result, this part has been written to be an integral part of the planned revised and reorganized regulations and may, in certain instances, refer to parts of regulations which are not currently in effect. The Railroad Retirement Board believes that any minor inconveniences that might arise as a result of publishing the regulations on a part-by-part basis are outweighed by the benefits derived from publishing current, more easily usable and understandable regulations on a consistent basis.

The Board has determined that this is not a major rule for purposes of Executive Order 12291. Therefore, no regulatory impact analysis is required. In addition, this rule does not impose any information collections within the meaning of the Paperwork Reduction Act (44 U.S.C. Ch. 35).

List of Subjects in 20 CFR Part 222

Railroad employees, Railroad retirement, Family relationships.

For the reasons set out in the preamble, title 20, chapter II of the Code of Federal Regulations is amended by adding part 222, Family Relationships, to read as follows:

PART 222—FAMILY RELATIONSHIPS

Subpart A—General

Sec.

222.1 Introduction.
222.2 Definitions.
222.3 Other regulations related to this part.
222.4 Homicide of employee.

Subpart B—Relationship as Wife, Husband, or Widow(er)

222.10 When determinations of relationship as wife, husband, widow or widower of employee are made.

222.11 Determination of marriage relationship.
222.12 Ceremonial marriage relationship.
222.13 Common-law marriage relationship.
222.14 Deemed marriage relationship.
222.15 When spouse is living with employee.
222.16 When spouse is living in the same household with employee.
222.17 "Child in care" when child of the employee is living with the claimant.
222.18 "Child in care" when child of the employee is not living with the claimant.

Subpart C—Relationship as Divorced Spouse, Surviving Divorced Spouse, or Remarried Widow(er)

222.20 When determination of relationship as divorced spouse, surviving divorced spouse, or remarried widow(er) is made.
222.21 When marriage is terminated by final divorce.
222.22 Relationship as divorced spouse.
222.23 Relationship as surviving divorced spouse.
222.24 Relationship as remarried widow(er).

Subpart D—Relationship as Child

222.30 When determinations of relationship as child are made.
222.31 Relationship as child for annuity and lump-sum payment purposes.
222.32 Relationship as a natural child.
222.33 Relationship resulting from legal adoption.
222.34 Relationship resulting from equitable adoption.
222.35 Relationship as stepchild.
222.36 Relationship as grandchild or stepgrandchild.

Subpart E—Relationship as Parent, Grandchild, Brother or Sister

222.40 When determinations of relationship are made for parent, grandchild, brother or sister.
222.41 Determination of relationship and support for parent.
222.42 When employee is contributing to support.
222.43 How the one-half support determination is made.
222.44 Other relationship determinations for lump-sum payments.

Subpart F—Child Support and Dependency

222.50 When child dependency determinations are made.
222.51 When a natural child is dependent.
222.52 When a legally adopted child is dependent—general.
222.53 When a legally adopted child is dependent—child adopted after entitlement.
222.54 When a legally adopted child is dependent—grandchild or stepgrandchild adopted after entitlement.
222.55 When a stepchild is dependent.
222.56 When a grandchild or stepgrandchild is dependent.
222.57 When an equitably adopted child is dependent.
222.58 When a child is living with an employee.

Authority: 45 U.S.C. 231f.

Subpart A—General

§ 222.1 Introduction.

This part sets forth and describes the family relationships that may make a claimant eligible for an annuity or lump-sum payment under the Railroad Retirement Act and furnishes the basic rules for determining when those relationships exist. Such relationships may result from a current or terminated marriage or through birth, death or adoption. Other relevant relationships are having a child in care, dependency or lack of it, contributing to support, living in the same household, and being under court order to contribute to support.

§ 222.2 Definitions.

As used in this part—

"*Annuity*" means a payment under the Railroad Retirement Act due to an entitlement claimant for a calendar month and made to him or her on the first day of the following month.

"*Apply*" means to sign a form or statement that the Railroad Retirement Board accepts as an application for an annuity or lump-sum payment under the rules set out in part 217 of this chapter.

"*Child*" has differing definitions for annuity and lump-sum payment purposes. See § 222.31.

"*Claimant*" means a person who files an application for an annuity or lump-sum payment or for whom an application is filed.

"*Eligible*" means that a person would meet all the requirements for payment of an annuity or lump-sum payment as of a given date but has not yet applied therefor.

"*Employee*" means an employee as defined in part 203 of this chapter.

"*Final divorce*" means a divorce that completely dissolves a marriage and restores the parties to the status of single persons; it is also referred to as an absolute divorce.

"*Finally divorced person*" means a person whose marriage has been terminated or dissolved by a final divorce.

"*Legal impediment*" means that there was a defect in the procedures followed in a marriage ceremony or that a previous marriage of the employee or spouse had not ended at the time of the ceremony.

"*Lump-sum payment*" means any of the following payments under the Railroad Retirement Act: lump-sum death payment, residual lump-sum, annuities due but unpaid at death, or lump-sum refund payment (see part 234 of this chapter).

"*Marriage*" means the social and legal relationship of husband and wife for family relationship purposes, as well as the act by which the married state is effected.

"*Permanent home*" means the employee's true and fixed home (legal domicile); it is the place to which the employee intends to return whenever he or she is absent therefrom.

"*Relationship*" means a family connection by blood, marriage, or adoption between the employee and another person who is a claimant.

"*Spouse*" means the husband or wife of the employee.

"*State law*" means the law of the State in which the employee has his or her permanent home or, in the case of a deceased employee, the law of the State in which the employee had his or her permanent home at the time of his or her death. If the employee's permanent home is not in one of the 50 States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa, the laws of the District of Columbia are applied.

§ 222.3 Other regulations related to this part.

This part is related to a number of other parts of this chapter:

Part 216 describes when a person is eligible for an annuity under the Railroad Retirement Act.

Part 217 describes how to apply for an annuity or for lump-sum payments.

Part 218 sets forth the beginning and ending dates of annuities.

Part 219 sets out what evidence is necessary to prove eligibility and the relationships described in this part.

Part 220 describes when a person is eligible for a disability annuity under the Railroad Retirement Act or a period of disability under the Social Security Act.

Part 225 explains how primary insurance amounts (PIA's) are computed.

Part 226 outlines the computation of employee and spouse annuities.

Part 228 describes how survivor annuities are computed.

Part 229 describes when and how an employee and spouse annuity may be increased under the social security overall minimum provision.

Part 234 describes lump-sum payments under the Railroad Retirement Act.

§ 222.4 Homicide of employee.

No person convicted of the felonious and intentional homicide of an employee can be entitled to an annuity or lump-sum payment based on the employee's earnings record (service and compensation). Further, the convicted

person is considered not to exist in deciding the rights of other persons to annuity or lump-sum payments. A minor may be denied a survivor annuity or lump-sum payment on the earnings record of a parent if the minor was convicted of intentionally causing the parent's death by an act which would be considered a felony if committed by an adult.

Subpart B—Relationship as Wife, Husband, or Widow(er)

§ 222.10 When determinations of relationship as wife, husband, widow of widower or employee are made.

(a) The claimant's relationship as the wife or husband of an employee is determined when the claimant applies for an annuity, or when there is a claim which would include a husband or wife in the computation of the social security overall minimum provision, or when a claim is filed for a lump-sum payment. If a deemed marriage (see § 222.14) is to be determined, the husband, wife, or widow(er) must also be found to be or to have been living in the same household as the employee (see § 222.16).

(b) The claimant's relationship as the widow(er) of an employee is determined as of the date on which the employee died. If the claimant applied for a lump-sum payment as the widow(er) of the employee, one of the following determinations is made:

(1) Whether the widow(er) was living in the same household as the employee, as defined in § 222.16 of this part, at the time of the employee's death, if the claimant is applying for the 1974 Act lump-sum death payment.

(2) Whether the widow(er) was living with the employee, as defined in § 222.15 of this part, at the time of the employee's death, if the claimant is applying for the 1937 Act lump-sum death payment, annuities due but unpaid at death, the residual lump-sum payment, or a lump-sum refund payment.

(c) In order for a claimant who has applied for a monthly survivor annuity to establish a deemed marriage, the claimant must have been living in the same household as the employee at the time of the employee's death (see § 222.16).

(d) If the husband, wife, widow(er), remarried widow(er), or surviving divorced spouse of the employee is a claimant for a monthly annuity on a basis other than age or disability, a child-in-care determination is required (see §§ 222.17 and 222.18).

§ 222.11 Determination of marriage relationship.

A claimant will be considered to be the husband, wife, or widow(er) of an employee if the law of the State in which the employee has or had a permanent home would recognize that the claimant and employee were validly married, or if a deemed marriage is established.

(a) Generally, State courts will find that a claimant and employee were validly married if—

(1) The employee and claimant were married in a civil or religious ceremony (see § 222.12) or

(2) The employee and claimant live together in a common-law marriage relationship which is recognized under applicable State law (see § 222.13), and no impediment to the marriage existed at the time it took place.

(b) A deemed marriage relationship may be established as described in § 222.14.

§ 222.12 Ceremonial marriage relationship.

A valid ceremonial marriage is one which would be recognized as valid by the courts of the State in which the marriage ceremony took place. Generally, State law provides various procedures which must be followed, such as designation of who may perform the marriage ceremony, what licenses or witnesses are required, and similar rules. A ceremonial marriage may be a civil or religious ceremony, or a ceremony which follows tribal customs, Chinese customs, or similar traditional procedures.

§ 222.13 Common-law marriage relationship.

Under the laws of some States, a common-law marriage is one which is not solemnized in a formal ceremony, but is generally evidenced by a consummated agreement to marry between two persons legally capable of making a marriage contract, followed by cohabitation. The laws of the various States which recognize common-law marriage delineate specific factors which must be present in order to establish a valid common-law marriage in those States.

§ 222.14 Deemed marriage relationship.

If a ceremonial or common-law marriage relationship cannot be established under State law, a claimant may still be found to have the relationship as spouse of an employee based upon a deemed marriage. A claimant is deemed to be the wife, husband, or widow(er) of the employee if the person's marriage to the employee would have been valid under State law except for a legal impediment, and all of the following requirements are met:

(a) The claimant married the employee in a civil or religious ceremony.

(b) The claimant went through the marriage ceremony in good faith. Good faith means that at the time of the ceremony the claimant did not know that a legal impediment existed, or if the claimant did know, he or she thought that it would not prevent a valid marriage.

(c) The claimant was living in the same household as the employee (see § 222.16) when he or she applied for the spouse annuity or when the employee died.

(d) At the time the claimant applies for his or her annuity, no other person has a relationship under State law, as described in §§ 222.12 and 222.13, as the employee's wife, husband, or widow(er), and is entitled to an annuity under the Railroad Retirement Act or a monthly social security benefit based on that relationship.

§ 222.15 When spouse is living with employee.

A spouse, or widow(er) is living with the employee if—

(a) He or she and the employee are living in the same household; or

(b) The employee is contributing to the support of the spouse or widow(er); or

(c) The employee is under court order to contribute to the support of the spouse or widow(er).

§ 222.16 When spouse is living in the same household with employee.

(a) Living in the same household means that the employee and spouse customarily live together as a married couple in the same residence.

(b) The employee and spouse are also considered members of the same household when they live apart but expect to resume or continue living together after a temporary separation.

(c) If the employee and spouse were separated solely for medical reasons, the Board will consider them "living in the same household" even if the separation was likely to be permanent.

§ 222.17 "Child in care" when child of the employee is living with the claimant.

"Child in care" means a child who has been living with the claimant for at least 30 consecutive days unless—

(a) The child is in active military service;

(b) The child is 18 years old (16 with respect to male spouse, divorced spouse, surviving divorced spouse, or remarried

widow(er) annuities) or older and is not disabled;

(c) The child is 18 years old (16 with respect to male spouse, divorced spouse, surviving divorced spouse, or remarried widow(er) annuities) or older with a mental disability and the claimant does not exercise parental control and responsibility; or

(d) The child is 18 years old (16 with respect to male spouse, divorced spouse, surviving divorced spouse, or remarried widow(er) annuities) or older with a physical disability, but it is not necessary for the claimant to perform personal services for the child.

(e) Parental control and responsibility for the care and welfare of the child means that the parent supervises the child's activities and makes important decisions about the child's needs either alone or with another person. Personal services are services such as dressing, feeding and managing money which the child cannot do alone because of a disability.

§ 222.18 "Child in care" when child of the employee is not living with the claimant.

(a) *When child is in care.* A child living apart from a claimant is in that claimant's care if—

(1) The child lives apart or is expected to live apart from the claimant for not more than six months; or

(2) The child is under 18 years old (16 with respect to male spouse, divorced spouse, surviving divorced spouse, or remarried widow(er) annuities), the claimant supervises the child's activities and makes important decisions about his or her needs, and one of the following circumstances applies:

(i) The child is living apart because of attendance at school but generally spends a vacation of at least 30 consecutive days with the claimant each year, and, if the claimant and the child's other parent are separated, the school must look to the claimant for decisions about the child's welfare.

(ii) The child is living apart because of the claimant's employment but the claimant makes regular and substantial contributions to the child's support. "Contributing to support" is defined in § 222.42.

(iii) The child is living apart because of the child's or the claimant's physical disability; or

(3) The child is 18 years old (16 with respect to male spouse, divorced spouse, surviving divorced spouse, or remarried widow(er) annuities) or older and is mentally disabled and the claimant supervises the child's activities, makes important decisions about the child's needs, and helps in the child's upbringing and development.

(b) *When child is not in care.* A child livng apart from a claimant is not in the claimant's care if—

(1) The child is in active military service; or

(2) The child is living with his or her other parent; or

(3) A court order removed the child from the claimant's custody and control; or

(4) The claimant gave the right to custody and control of the child to someone else; or

(5) The claimant is mentally disabled.

Subpart C—Relationship as Divorced Spouse, Surviving Divorced Spouse, or Remarried Widow(er)

§ 222.20 When determination of relationship as divorced spouse, surviving divorced spouse, or remarried widow(er) is made.

(a) *Divorced spouse.* The claimant's relationship as the divorced spouse of an employee is determined when the purported divorced spouse applies for an annuity, or when there is a claim which would include a divorced spouse in the computation of the social security overall minimum provision. Such a determination is also made when a spouse annuitant age 62 or over secures a final divorce from the employee after 10 years of marriage.

(b) *Surviving divorced spouse.* The claimant's relationship as the surviving divorced spouse of an employee is determined when the purported surviving divorced spouse applies for an annuity on the basis of age, disability, or having a child in care. Such a determination is also made when there is a divorced spouse annuitant and the employee dies.

(c) *Remarried widow(er)* The claimant's relationship as a remarried widow(er) of a employee is determined when the purported remarried widow(er) applies for an annuity. Such a determination is also made when a widow(er) who is receiving an annuity remarries after age 60, or when a widow(er) who is receiving a disability annuity remarries after age 50.

§ 222.21 When marriage is terminated by final divorce.

A final divorce, often referred to as an absolute divorce, completely dissolves the marriage relationship and restores the parties to the status of single persons. A legal separation, qualified or preliminary divorce, divorce from bed and board, interlocutory decree of divorce, or similar court order is not considered a final divorce for family relationship and benefit entitlement purposes.

§ 222.22 Relationship as divorced spouse.

A claimant will be considered to be the divorced spouse of an employee if—

(a) His or her marriage to the employee has been terminated by a final divorce; and

(b) He or she is not married (if the claimant remarried after the divorce from the employee, the later marriage has been terminated by death, final divorce, or annulment); and

(c) He or she had been validly married to the employee, as set forth in § 222.11, for a period of 10 years immediately before the date the divorce became final. The claimant meets this requirement even if the claimant and employee were divorced within the ten-year period, provided that the claimant and employee were remarried no later than the calendar year immediately following the year in which the divorce took place.

§ 222.23 Relationship as surviving divorced spouse.

A claimant will be considered to be the surviving divorced spouse of a deceased employee if the conditions in either paragraph (a) or (b) of this section are met:

(a) *Age or disability.* The claimant applied for an annuity on the basis of age or disability, and the conditions set forth in § 222.22 are met.

(b) *Child in care.* The claimant applied for an annuity on the basis of having a child in care, and—

(1) His or her marriage to the employee has been terminated by a final divorce; and

(2) He or she is not married (if the claimant remarried after the divorce from the employee, the later marriage has been terminated by death, final divorce, or annulment); and

(3) He or she either—

(i) Was the natural parent of the employee's child; or

(ii) Had been married to the employee when either the employee or the claimant legally adopted the other's child or when they both legally adopted a child who was then under 18 years of age.

§ 222.24 Relationship as remarried widow(er).

(a) *New eligibility.* A claimant will have the relationship of a remarried widow(er) if he or she is the widow(er), as discussed in § 222.11, of an employee and the claimant—

(1) Remarried after attaining age 60, or remarried after attaining age 50 and after the date on which he or she became disabled; or

(2) Remarried before attaining age 60, but is now unmarried, or remarried before attaining age 50 or before the date on which he or she became disabled, but is now unmarried.

(b) *Reentitlement.* A claimant will have the relationship of a remarried widow(er) if he or she remarries after his or her entitlement to an annuity as a widow(er) has been established, and the claimant—

(1) Remarries after attaining age 60, or remarries after attaining age 50 and after the date on which he or she became disabled; or

(2) Is entitled to an annuity based upon having a child of the employee in care and remarries, but this marriage is to a person who is entitled to a retirement, disability, widow(er)'s, mother's, father's, parent's, or disabled child's benefit under the Railroad Retirement Act or Social Security Act.

Subpart D—Relationship as Child

§ 222.30 When determinations of relationship as child are made.

(a) Determinations will be made regarding a person's relationship as the child of the employee and that person's dependency on the employee (see Subpart F of this part) when—

(1) The wife or husband of an employee applies for a spouse's annuity based on having the employee's child in care; or

(2) The employee's annuity can be increased under the social security overall minimum provision based on the child; or

(3) The employee dies and the claimant applies for a child's annuity.

(b) A determination will be made regarding a claimant's relationship as the child of the employee when the claimant applies for a share of a lump-sum payment as a child.

§ 222.31 Relationship as child for annuity and lump-sum payment purposes.

(a) *Annuity claimant.* When there are claimants under paragraph (a)(1), (a)(2), or (a)(3) of § 222.30, a person will be considered the child of the employee when that person is—

(1) The natural or legally adopted child of the employee (see § 222.33); or

(2) The stepchild of the employee; or

(3) The grandchild or stepgrandchild of the employee or spouse; or

(4) The equitably adopted child of the employee.

(b) *Lump-sum payment claimant.* A claimant for a lump-sum payment must be one of the following in order to be considered the child of the employee:

(1) The natural child of the employee;

(2) A child legally adopted by the employee (this does not include any child adopted by the employee's widow or widower after the employee's death);

(3) The equitably adopted child of the employee.

§ 222.32 Relationship as a natural child.

A claimant will be considered the natural child of the employee for both annuity and lump-sum payment purposes if one of the following sets of conditions is met:

(a) Under relevant State law, the claimant could inherit a share of the employee's personal estate as the employee's natural child if the employee were to die without leaving a will;

(b) The claimant is the employee's son or daughter, and the employee and the claimant's mother or father went through a marriage ceremony which would have been valid except for a legal impediment;

(c) The claimant's mother or father has not married the employee, but—

(1) The employee has acknowledged in writing that the claimant is his or her son or daughter; or

(2) A court has decreed that the employee is the mother or father of the claimant; or

(3) A court has ordered the employee to contribute to the claimant's support because the claimant is the employee's son or daughter; and

(4) Such acknowledgement, court decree, or court order was made not less than one year before the employee became entitled to an annuity or, in the case of a disability annuitant, prior to his or her most recent period of disability or, in case the employee is deceased, prior to his or her death.

(d) The claimant's mother or father has not married the employee, but—

(1) The claimant has submitted evidence acceptable in the judgment of the Board, other than that discussed in paragraph (c) of this section, that the employee is his or her mother or father; and

(2) The employee was living with the claimant or contributing to the claimant's support, as discussed in §§ 222.58 and 222.42 of this part, when—

(i) The spouse applied for an annuity based on having the employee's child in care; or

(ii) The employee's annuity could have been increased under the social security overall minimum provision; or

(iii) The employee died, if the claimant is applying for a child's annuity or lump-sum payment.

§ 222.33 Relationship resulting from legal adoption.

(a) *Adopted by employee.* A claimant will be considered to be the child of the employee for both annuity and lump-sum payment purposes if the employee legally adopted the claimant in accordance with applicable State law. Legal adoption differs from equitable adoption in that in the case of legal adoption formal adoption proceedings have been completed in accordance with applicable State law and such proceedings are not defective.

(b) *Adopted by widow or widower.* A claimant who is legally adopted by the widow or widower of the employee after the employee's death will be considered to be the child of the employee for annuity but not for lump-sum payment purposes if—

(1) Either the claimant is adopted by the widow or widower within two years after the date on which the employee died, or the employee commenced proceedings to legally adopt the claimant before the employee's death; and

(2) The claimant was living in the employee's household at the time of the employee's death; and

(3) The claimant was not receiving regular support contributions from any other person other than the employee or spouse at the time of the employee's death.

§ 222.34 Relationship resulting from equitable adoption.

In many States, where a legal adoption proceeding was defective under State law or where a contemplated legal adoption was not completed, a claimant may be considered to be an equitably adopted child. A claimant will have the relationship of an equitably adopted child for annuity and lump-sum payment purposes if, in addition to meeting the other requirements of this part—

(a) The employee had agreed to adopt the claimant; and

(b) The natural parents or the person legally responsible for the care of the claimant agreed to the adoption; and

(c) The employee and the claimant lived together as parent and child; and

(d) The agreement to adopt is recognized under applicable State law such that, if the employee were to die without leaving a will, the claimant could inherit a share of the employee's personal estate as the child of the employee.

§ 222.35 Relationship as stepchild.

A claimant will be considered to have the relationship of stepchild of an employee, and will be considered a child for annuity but not for lump-sum benefit purposes if—

(a) The claimant's natural or adoptive parent married the employee after the claimant's birth; and

(b) The marriage between the employee and the claimant's parent is a valid marriage under applicable State law (see §§ 222.12 and 222.13), or would be valid except for a legal impediment; and

(c) The employee and the claimant's parent were married at least one year before the date—

(1) On which the spouse applies for an annuity based on having the employee's child in care; or

(2) On which the employee's annuity can be increased under the social security overall minimum provision; or

(d) The employee and the claimant's parent were married at least nine months before the date on which the employee died if the claimant is applying for a child's annuity; or if the employee and the claimant's parent were married less than nine months, the employee was reasonably expected to live for nine months, and—

(1) The employee's death was accidental; or

(2) The employee died in the line of duty as a member of the armed forces of the United States; or

(3) The widow(er) was previously married to the employee for at least nine months.

§ 222.36 Relationship as grandchild or stepgrandchild.

A claimant will have the relationship of grandchild or stepgrandchild of an employee, or the grandchild or stepgrandchild of an employee's spouse, and be considered a child for annuity purposes if the requirements in both paragraph (a) and either paragraph (b) or (c) of this section are met.

(a) The claimant is the natural child, adopted child, or stepchild of a child of an employee, or of a child of the employee's spouse as defined in this subpart;

(b) The claimant's natural or adoptive parents are deceased or are disabled, as defined in section 223(d) of the Social Security Act, in the month in which—

(1) The employee, who is entitled to an age and service or disability annuity, under the Railroad Retirement Act, would also be entitled to an age benefit under section 202(a) of the Social Security Act or a disability benefit under section 223 of the Social Security Act, if his or her railroad compensation were considered wages under that Act; or

(2) The employee dies; or

(3) The employee's period of disability begins, if the employee has a period of disability which continues until he or she could be entitled to a social security benefit as described in paragraph (b)(1) of this section or until he or she dies.

(c) The claimant was legally adopted in the United States by the employee's widow(er) after the employee's death, and the claimant's natural or adoptive parent or stepparent was not living in the employee's household and making regular contributions to the claimant's support at the time the employee died.

Note: A grandchild or stepgrandchild does not have the relationship of "child" for lump-sum payment purposes (see § 222.44).

Subpart E—Relationship as Parent, Grandchild, Brother or Sister

§ 222.40 When determinations of relationship are made for parent, grandchild, brother or sister.

(a) *Parent.* The claimant's relationship as a parent of the employee is determined when the claimant applies for an annuity or for lump-sum payments.

(b) *Grandchild.* The claimant's relationship as a grandchild, rather than as a child, of the employee is determined when the claimant applies for lump-sum payments.

(c) *Brother or sister.* The claimant's relationship as a brother or sister of the employee is determined when the claimant applies for lump-sum payments.

§ 222.41 Determination of relationship and support for parent.

(a) *Annuity claimant.* For purposes of applying for an annuity, a claimant is considered the employee's parent when the claimant—

(1) Is the natural mother or father of the employee, and is considered the employee's parent under the law of the State in which the employee had a permanent home when the employee died; or

(2) Is a person who legally adopted the employee before the employee became 16 years old; or

(3) Is a stepparent who married the employee's natural or adoptive parent before the employee became 16 years old (the marriage must be valid under the law of the State in which the employee had a permanent home when the employee died); and

(4) Was receiving at least one-half support from the employee (see §§ 222.42 and 222.43 of this part) either when the employee died or at the beginning of the period of disability, if the employee had a period of disability.

(b) *Lump-sum payment claimant.* For purposes of applying for lump-sum payments, a claimant is considered the employee's parent when he or she—

(1) Is the natural mother or father of the employee, and is considered the employee's parent under applicable State law; or

(2) Legally adopted the employee, if thereby recognized as a parent under applicable State law; but

(3) The claimant need not have received one-half support from the employee.

§ 222.42 When employee is contributing to support.

(a) An employee is contributing to the support of a person if the employee gives cash, goods, or services to help support such person. Support includes food, clothing, housing, routine medical care, and other ordinary and necessary living expenses. The value of any goods which the employee contributes shall be based upon the replacement cost of those goods at the time they are contributed. If the employee provides services that would otherwise require monetary payment, the cash value of the employee's services may be considered a contribution to support.

(b) The employee is contributing to the support of a person if that person receives an allotment, allowance, or benefit based upon the employee's military pay, veteran's pension or compensation, social security earnings, or railroad compensation.

(c) Contributions must be made regularly and must be large enough to meet an important part of the person's ordinary and necessary living expenses. If the employee provides only occasional gifts or donations for special purposes, they will not be considered contributions for support. Although the employee's contributions must be made on a regular basis, temporary interruptions caused by circumstances beyond the employee's control, such as illness or unemployment, will be disregarded unless during these interruptions someone else assumes responsibility for support of the person on a regular basis.

§ 222.43 How the one-half support determination is made.

(a) *Amount of contributions.* The employee provides one-half support to a person if the employee makes regular contributions to that person's support, and the amount of the contributions is equal to or in excess of one-half of the person's ordinary and necessary living expenses. Ordinary and necessary living expenses are the costs for food, clothing, housing, routine medical care, and similar necessities. A contribution may be in cash, goods, or services (see § 222.42 of this part). For example, an

employee pays rent and utilities amounting to $6,000 per year on an apartment in which his mother resides. In addition, the employee's mother receives $3,600 per year in social security benefits which she uses to pay for her food, clothing and medical care. The mother's total necessary living expenses are $9,600 ($6,000 + $3,600). Since the employee contributes $6,000 toward these expenses, he is contributing in excess of one-half of his mother's support.

(b) *Reasonable period of time.* The employee is not providing at least one-half of a person's support unless the employee has made contributions for a reasonable period of time. Ordinarily, the Board will consider a reasonable period of time to be the 12-month period immediately preceding the time when the one-half support requirement must be satisfied. However, if the employee provided one-half or more of the person's support for at least 3 months of the 12-month period, and was forced to stop or reduce contributions because of circumstances beyond his or her control, such as illness or unemployment, and no one else took over responsibility for providing at least one-half of the person's support on a permanent basis, three months shall be considered a reasonable period of time.

§ 222.44 Other relationship determinations for lump-sum payments.

Other claimants will be considered to have the relationships to the employee shown below for lump-sum payment purposes:

(a) *Grandchildren.* A grandchild is a separate class of beneficiary to be considered for lump-sum payments and is not a child of the employee; he or she is a child of the employee's son or daughter as determined under State law. A stepgrandchild is not included in this class of beneficiary.

(b) *Brother or Sister.* "Brother" or "Sister" means a full brother or sister or a half brother or half sister, but not a stepbrother or stepsister.

Subpart F—Child Support and Dependency

§ 222.50 When child dependency determinations are made.

(a) *Dependency determination.* One of the requirements for a child's annuity or for increasing an employee or spouse annuity under the social security overall minimum provision on the basis of the presence of a child in the family group is that the child be dependent upon the employee. The dependency requirements and the time when they must be met are explained in §§ 222.51 through 222.57.

(b) *Related determinations.* To prove a child's dependency, an applicant may be asked to show that at a specific time the child lived with the employee, tht the child received contributions for his or her support from the employee, or that the employee provided at least one-half of the child's support. The terms "living with", "contributing to support", and "one-half support" are defined in §§ 222.58, 222.42, an 222.43. These determinations are required when—

(1) A natural child or legally adopted child of the employee is adopted by someone else; or

(2) The child claimant is the stepchild, grandchild, or equitably adopted child of the employee.

§ 222.51 When a natural child is dependent.

The employee's natural child, as defined in § 222.32, is considered to be dependent upon the employee. However, if the child is legally adopted by someone else during the employee's lifetime and, after the adoption, a child's annuity or other annuity or annuity increase is applied for on the basis of the employee's earnings record and the relationship of the child to the employee, the child will be considered dependent upon the employee (the natural parent) only if he or she was either living with the employee or the employee was contributing to the child's support when either:

(a) A spouse's annuity begins; or

(b) The employee's annuity can be increased under the social security overall minimum provision; or

(c) The employee dies; or

(d) If the employee had a period of disability which lasted until he or she could have become entitled to an age or disability benefit under the Social Security Act (treating the employee's railroad compensation as wages under that Act), at the beginning of the period of disability or at the time the employee could have become entitled to the benefit.

§ 222.52 When a legally adopted child is dependent—general.

(a) *During employee's lifetime.* If the employee adopts a child before he or she could become entitled to a social security benefit (treating his or her railroad compensation as wages under that Act), the child is considered dependent upon the employee. If the employee adopts a child, unless the child is his natural child or stepchild, after he or she could become entitled to an old age or disability benefit under the Social Security Act (treating his or her railroad compensation as wages under that Act), the child is considered dependent on the employee only if the requirements of § 222.53 are met.

(b) *After employee's death.* If the surviving spouse of an employee adopted a child after the employee's death, the child is considered dependent on the employee if either—

(1) The employee began proceedings to adopt the child prior to his or her death, or the surviving spouse adopted the child within two years after the employee's death; and

(2) The child was living in the employee's household at the time of the employee's death; and

(3) The child was not receiving regular contributions from any person, including any public or private welfare organization, other than the employee or spouse at the time of the employee's death.

§ 222.53 When a legally adopted child is dependent—child adopted after entitlement.

A child who is not the employee's natural child, stepchild, grandchild, or stepgrandchild, and who is adopted by the employee after the employee could become entitled to an old age or disability benefit under the Social Security Act (treating his or her railroad compensation as wages under that Act), is considered dependent on the employee during the employee's lifetime only if the requirements in paragraphs (a) and (b), and either (c) or (d) of this section are met:

(a) The child is adopted in the United States;

(b) The child began living with the employee before the child attained age 18;

(c) The child is living with the employee in the United States and received at least one-half of his or her support from the employee for the year before the month in which—

(1) The employee could become entitled to a social security benefit as described above; or

(2) The employee becomes entitled to a period of disability which continues until he or she could become entitled to a social security benefit as described above.

(d) In the case of a child born within the one-year period stated in paragraph (c) of this section, at the close of such period the child must have been living with and have been receiving at least one-half of his or her support from the employee for substantially all of the period that began on the date the child was born.

(e) "Substantially all" means—

(1) The child was living with and receiving one-half support from the employee when the employee could have become entitled to a social security benefit as described above; and

(2) Any period during which the child was not living with or receiving one-half support from the employee is not more than one-half the period from the child's birth to the employee's date of entitlement or three months, whichever is less.

§ 222.54 When a legally adopted child is dependent—grandchild or stepgrandchild adopted after entitlement.

If an employee legally adopts his or her grandchild or the spouse's grandchild after he could become entitled to an old age or disability benefit under the Social Security Act (treating his or her railroad compensation as wages under that Act), the grandchild is considered dependent on the employee during the employee's lifetime only if the requirements in paragraphs (a) and (b), and either (c) or (d) of this section are met:

(a) The grandchild is adopted in the United States.

(b) The grandchild began living with the employee before the grandchild attained age 18.

(c) The grandchild is living with the employee in the United States and receives at least one-half of his or her support from the employee for the year before the month in which—

(1) The employee's annuity was increased under the social security overall minimum provision by including the grandchild; or

(2) The employee could become entitled to a social security benefit as described above; or

(3) The employee becomes entitled to a period of disability which continues until he or she could become entitled to a social security benefit as described above.

(d) In the case of a grandchild born within the one-year period referred to in paragraph (c) of this section, at the close of such period the child must have been living with and have been receiving at least one-half of his or her support from the employee for substantially all of the period that began on the date the grandchild was born. "Substantially all" is defined in § 222.53.

§ 222.55 When a stepchild is dependent.

An employee's stepchild, as described in § 222.35, is considered dependent on the employee if the stepchild is living with or receiving at least one-half of his or her support from the employee at one of the times shown in § 222.51.

§ 222.56 When a grandchild or stepgrandchild is dependent.

An employee's grandchild or stepgrandchild, as described in § 222.36, is considered dependent on the employee if the requirements in both paragraphs (a) and (b), or paragraph (c) of this section are met:

(a) The grandchild or stepgrandchild was living with the employee before the grandchild or stepgrandchild attained age 18.

(b) The grandchild or stepgrandchild is living with the employee in the United States and receives at least one-half of his or her support from the employee for the year before the month in which—

(1) The employee could become entitled to an age and service or disability annuity under the Social Security Act (treating his or her railroad compensation as wages under that Act); or

(2) The employee dies; or

(3) The employee becomes entitled to a period of disability that lasts until he or she could become entitled to a social security benefit as described above or until he or she dies.

(c) In the case of a grandchild or stepgrandchild born within the one-year period referred to in paragraph (b) of this section, at the close of such period the child must have been living with and receiving at least one-half of his or her support from the employee for substantially all of the period that began on the date the grandchild or stepgrandchild was born. "Substantially all" is defined in § 222.53.

§ 222.57 When an equitably adopted child is dependent.

An employee's equitably adopted child, as defined in § 222.34, is considered dependent upon the employee if the employee was either living with or contributing to the support of the child at the time of his or her death. If the equitable adoption is found to have occurred after the employee could have become entitled to an old age or disability benefit under the Social Security Act (treating his or her railroad compensation as wages under that Act), the child is not considered dependent on the employee during the employee's lifetime. If the equitable adoption took place before such time, the child is dependent on the employee if the employee was living with or contributing to the support of the child at one of the times shown in § 222.51.

§ 222.58 When a child is living with an employee.

A child is living with the employee if the child normally lives in the same household with the employee and the employee has parental control and authority over the child's activities. The child is considered to be "living with" the employee while they are living apart if they expect to live together again after a temporary separation. A temporary separation may include the employee's absence because of working away from home or hospitalization. However, the employee must have parental control and authority over the child during the period of temporary separation. A child who is in active military service or in prison is not "living with" the employee, since the employee does not have parental control over the child.

Dated: October 10, 1989.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 89-24675 Filed 10-18-89; 8:45 am]

BILLING CODE 7905-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[FRL-3669-3]

Designation of Areas for Air Quality Planning Purposes; Attainment Status Designations: Wisconsin

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Notice of Final Rulemaking.

SUMMARY: USEPA is approving a request from the State of Wisconsin to revise the sulfur dioxide (SO_2) attainment status designation for the City of Peshtigo, Marinette County, Wisconsin from nonattainment to attainment. Under the Clean Air Act (CAA), a designation can be changed if sufficient data are available to warrant such a change.

In today's notice, USEPA is approving this redesignation because the Wisconsin Department of Natural Resources (WDNR) has submitted sufficient data to support its request to redesignate Marinette County from nonattainment to attainment for SO_2.

Because USEPA considers today's action noncontroversial and routine, we are approving it today without prior proposal. The action will become effective on (60 days from the date of this notice). However, if we receive notice by (30 days from the date of this notice) that someone wishes to submit critical comments, *then* USEPA will publish: (1) A notice that withdraws the action, and (2) a notice that begins a

new rulemaking by proposing the action and establishing a comment period.

DATE: Any adverse comments must be submitted by November 20, 1989. This final rulemaking becomes effective December 18, 1989.

ADDRESSES: Copies of the redesignation request, technical support documents and the supporting air quality data are available at the following addresses:

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch (5AR–26), 230 South Dearborn Street, Chicago, Illinois 60604.

Wisconsin Department of Natural Resources, Bureau of Air Management, 101 South Webster, Madison, Wisconsin 53707.

Adverse comments on this rule, if any, should be addressed to: (Please submit an original and three copies, if possible)

Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR–26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Uylaine E. McMahan (312) 886–6031

SUPPLEMENTARY INFORMATION: Under section 107(d) of the CAA, the Administrator of USEPA has promulgated the National Ambient Air Quality Standard (NAAQS) attainment status for all areas within each State. For Wisconsin, see 43 FR 8962 (March 3, 1978), 43 FR 45993 (October 5, 1978), and 40 CFR 81.350. These area designations are subject to revision whenever sufficient data become available to warrant a redesignation. A portion of Marinette County,[1] Wisconsin was designated as not attaining the secondary SO_2 standard. For areas designated nonattainment for SO_2, an SO_2 State Implementation Plan (SIP) was required which satisfied the requirements of section 110(a) and Part D of the CAA, including assuring the attainment and maintenance of the SO_2 NAAQS. Wisconsin submitted such a plan, and, in an April 4, 1989, (54 FR 13522) direct Final Rulemaking notice, USEPA approved the SO_2 SIP for the City of Peshtigo, Marinette County, Wisconsin.

On December 16, 1988, pursuant to section 107(d)(5) of the CAA, the WDNR also requested that the City of Peshtigo nonattainment area be redesignated to attainment of the SO_2 NAAQS.

Redesignation Requirements

USEPA's redesignation requirements implementing the CAA are found in two memos: Sheldon Meyers to Air and Waste Management Division Directors, "Section 107 Designation Policy Summary", April 21, 1983, and G.T. Helms to Air Branch Chiefs, "Section 107 Questions and Answers", December 23, 1983. The policy requirements as they apply to WDNR's submittal are as follows:

1. There must be a referenced modeled attainment demonstration based on USEPA emission limitations.

USEPA analysis: The modeled attainment demonstration was performed using a USEPA guideline model. The revised emission limitations for Badger Paper Mills will assure attainment and maintenance of the NAAQS for SO_2.

2. Most recent eight consecutive quarters of quality assured, representative ambient air quality data (i.e., reflects maximum worst-case impacts with no violations of NAAQS).

WDNR submittal: WDNR submitted its most recent monitoring data from 1985–1987.

USEPA analysis: The monitored data show no violations of the SO_2 standards.

3. There must be evidence of compliance with the USEPA-approved SIP.

WDNR submittal: WDNR submitted its most recent compliance data based on the compliance test method for Badger Paper Mills.

USEPA analysis: The current federally approved SIP includes a stack test pursuant to the methods approved by USEPA. Although WDNR has developed a site specific compliance plan for Badger Paper Mill, the plan was not included as part of the April 4, 1989, rulemaking. Therefore, the only compliance data applicable to the Badger Paper Mill is stack testing which showed compliance with Wisconsin's SIP.

4. The redesignation must be consistent with USEPA's good engineering practice (GEP) Stack Height Regulations (50 FR 27892).

USEPA analysis: The SIP revision plan is based on two stack modifications. USEPA reviewed these modifications pursuant to the July 8, 1985, (50 FR 27892) Stack Height Regulations. Badger Papers stack height modifications are as follows:

1. Construct a single 197 foot stack to replace the previous single 106 foot stack for the Evaporator Plant, and,

2. Construct a single 100 foot digester blow stack to replace two 80 foot digester blow stacks for the Digester.

Both modifications will be less than the *de minimums* height of 213 feet (65 meters) and are, thus, creditable under USEPA's stack height regulations. With regard to the Digester Blow Stack, the merging of the two digester blow stacks is also creditable for SO_2, because it is associated with the installation of SO_2 control equipment which results in a net reduction in SO_2 emissions. Therefore, the GEP Stack Height Requirements have been met.

5. The redesignation must not result in a relaxation of the SIP, unless the State demonstrates that the NAAQS are still protected with the relaxation.

USEPA comment: The SIP was revised (See the April 4, 1989, **Federal Register** notice (54 FR 13522)) to include new, more stringent limitations for some sources at Badger Paper Mills. No relaxations in emission limitations are associated with the redesignation.

Conclusion

USEPA is approving the redesignation request for the City of Peshtigo, Marinette County, Wisconsin from nonattainment to attainment for the pollutant SO_2, because the WDNR has demonstrated that the area has attained the SO_2 NAAQS.

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

This action has been classified as a Table Three SIP action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989, (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Table Two and Three SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for a period of 2 years.

Under 5 U.S.C. section 605(b), I certify that approving this redesignation request will not have a significant economic impact on a number of small entities because it imposes no new requirements to anyone. (See 46 FR 8709).

[1] The Marinette County SO_2 primary and secondary nonattainment areas are defined as follows: Peshtigo-City Limits of Peshtigo.

Under section 307(b)(1) of the CAA, Petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate Circuit by (60 days from publication). This acton may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 81

Air pollution control, Environmental protection, National parks, Wilderness areas, Sulfur dioxide.

Authority: 42 U.S.C. 7401–7642.

Dated: September 28, 1989.

Frank M. Covington,

Acting Regional Administrator.

Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

1. The authority citation for Part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7642, unless otherwise noted.

2. In § 81.350 the Wisconsin SO_2 table is amended by revising the entry for "Marinette County" to read as follows:

§ 81.350 Wisconsin.

* * * * *

WISCONSIN—SO_2

Designation area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
* * * * * * *				
Marinette County				
Peshtigo—City limits of Peshtigo				X
Remainder of—Marinette County				X
* * * * * * *				

[FR Doc. 89–24591 Filed 10–18–89; 8:45 am]

BILLING CODE 6560–50–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1171

[Ex Parte No. 55 (Sub-No. 74A)]

Applications for Certificates of Registration for Certain Foreign Carriers

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: The Commission is adopting final amendments to the rules at 49 CFR part 1171 governing applications for certificates of registration for certain foreign carriers. A notice of proposed rules was published in the **Federal Register** on June 12, 1989 at 54 FR 24919. These amendments implement changes in the statutory requirements at 49 U.S.C. 10530 and 10922(1) enacted as part of the Truck and Bus Safety and Regulatory Reform Act of 1988 (title IX, subtitle B of the Anti-Drug Abuse Act of 1988; Pub. L. 100–690, 102 Stat. 4181). The Act changed the coverage of the registration requirement, and the duration of the certificates of registration. The amended rules are set forth below.

EFFECTIVE DATE: January 1, 1990.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder, (202) 275–7691

or

Joseph B. O'Malley, (202) 275–7928 [TDD for hearing impaired: (202) 275–1721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 275–1721.]

Energy and Environmental Considerations

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Regulatory Flexibility Analysis

We reaffirm our prior certification. The rules we are adopting will not have a significant economic impact on a substantial number of small entities. The modifications will continue an expedited procedure for foreign motor carriers and foreign motor private carriers to obtain certificates of registration consistent with statutory changes.

Paperwork Reduction Analysis

It is estimated that an average of 1 burden hour per response is required to complete the information elicited on the proposed revised licensing Form OP–2. This estimate includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Comments concerning the accuracy of this burden estimate or suggestions for reducing this burden should be directed to the Section of Administrative Services, Interstate Commerce Commission, and to the Office of Management and Budget, Paperwork Reduction Project (OMB No. 3120–0079), Washington, DC 20503.

List of Subjects in 49 CFR Part 1171

Administrative practice and procedure, Motor carriers, Insurance.

Decided: October 11, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips.

Noreta R. McGee,

Secretary.

For the reasons set forth in the preamble, title 49, chapter X, part 1171 of the Code of Federal Regulations is amended as follows:

PART 1171—RULES GOVERNING APPLICATIONS FOR CERTIFICATES OF REGISTRATION BY FOREIGN MOTOR CARRIERS AND FOREIGN MOTOR PRIVATE CARRIERS UNDER 49 U.S.C. 10530

1. The authority citation for 49 CFR part 1171 continues to read as follows:

Authority: 49 U.S.C. 10922 and 10530, 5 U.S.C. 553.

2. Section 1171.1(a) is revised to read as follows:

§ 1171.1 Controlling legislation.

(a) These rules govern applications filed under 49 U.S.C. 10530. Under this section certain foreign motor carriers and motor private carriers must hold a

certificate of registration to provide certain interstate transportation services otherwise outside the jurisdiction of the Commission. Neither a foreign motor carrier nor a foreign motor private carrier may provide interstate transportation of property unless the Commission has issued the carrier a certificate of registration. The service allowable under a certificate of registration is described in 49 U.S.C. 10922(1)(2)(B).

* * * * *

3. Section 1171.2(a) is revised to read as follows:

§ 1171.2 Definitions.

(a) *The Act.* The Truck and Bus Safety and Regulatory Reform Act of 1988.

* * * * *

§ 1171.2 [Amended]

4. Paragraph (b) of § 1171.2 is removed.

5. Paragraphs (c), (d), (e), (f), (g), (h), and (i) are redesignated as paragraphs (b), (c), (d), (e), (f), (g), and (h) in § 1171.2.

6. Newly redesignated paragraphs (b) and (c) are revised to read as follows:

§ 1171.2 Definitions.

* * * * *

(b) *Foreign motor carrier.* A person transporting the goods of others for hire (including a motor carrier of property):

(1) Which does not hold a certificate or permit issued under 49 U.S.C. 10922 or 10923;

(2) Which is domiciled in any contiguous foreign country, or is owned or controlled by persons of any contiguous foreign country, and is not domiciled in the United States; and

(3) In the case of a person which is not a motor carrier of property, which provides interstate transportation of property under an agreement or contract with a motor carrier of property (except a motor carrier described in (b)(2) of this section).

(c) *Foreign motor private carrier.* A person transporting its own goods (including a motor private carrier):

(1) Which is domiciled in any contiguous foreign country;

(2) Which is owned or controlled by persons of any contiguous foreign country, and is not domiciled in the United States; and

(3) In the case of a person which is not a motor private carrier which provided interstate transportation of property by motor vehicle under an agreement or contract entered into with a person (other than a motor private carrier described in (c) (1) and (2) of this section).

* * * * *

7. Section 1171.3 (b) and (d) are revised to read as follows:

§ 1171.3 Procedures used generally.

* * * * *

(b) Under the statute, the carriers covered must have a copy of a valid certificate of registration in any vehicle providing transportation within the scope of the statute.

* * * * *

(d) Applicants must concurrently serve a copy of their completed applications on the United States Department of Transportation, Federal Highway Administration, Office of Motor Carriers (DOT). DOT may intervene in any proceeding on the issue of safety fitness by filing an appropriate pleading detailing its reasons for opposing a grant of authority. The pleading must be filed within 20 days of receiving a copy of the application. Applicant may respond to any such pleading within 20 days of its filing.

8. Section 1171.6(b)(2) and (c) are revised to read as follows:

§ 1171.6 Commission review of the application.

* * * * *

(b) * * *

(2) If the employee board grants all or part of the application, the Commission will issue a certificate of registration authorizing specified operations provided that applicant has demonstrated compliance with:

(i) 49 CFR part 1044 (designation of process agent); and

(ii) 49 CFR part 1043 (insurance).

If applicant has not complied with these requirements, the Commission will issue a notice stating that a certificate of registration will be issued upon such compliance. No certificate of registration shall be issued prior to compliance.

(c) If the Department of Transportation intervenes under 49 CFR 1171.3(d), the proceeding will be decided by the Commission. If the Commission grants all or part of the application, it will issue a certificate in accordance with the procedure described in 49 CFR 1171.6(b)(2).

[FR Doc. 89-24695 Filed 10-18-89; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Parts 1312 and 1314

[Ex Parte No. 444]

Electronic Filing of Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notice of partial lifting of stay to final rules previously adopted.

SUMMARY: The Commission is partially lifting a stay that it imposed in this case (54 FR 10533, March 13, 1989) pending consideration of petitions for reconsideration. The result is that regulations previously adopted by the Commission in this proceeding and published in the **Federal Register** on February 10, 1989 at 54 FR 6403 will become effective for rail carriers only. Rail carriers will be permitted to file electronic tariffs as an alternative to printed tariffs. (Rail carriers will be required to accompany their electronic tariffs with identical printed tariffs for one year following the effective date of the Commission's decision lifting the stay.)

DATES: The rules published at 54 FR 6403 will become effective November 8, 1989, for rail carriers only.

FOR FURTHER INFORMATION CONTACT:

Neil Llewellyn, (202) 275-7348

or

Charles Langyher, (202) 275-7739, [TDD for hearing impaired: (202) 275-1721].

SUPPLEMENTARY INFORMATION: To implement electronic tariff filing, the Commission is relieving the rail carriers from the requirements of its detailed regulations at 49 CFR part 1312, which were drafted with only paper tariffs in mind. Instead, as a result of the partial lifting of the stay, the rail carriers will be required to comply with the regulations of 49 CFR part 1314 that are neutral with regard to the medium by which tariff information is transmitted both to the Commission and to the public. The regulations now effective for rail carriers are brief tariff standards merely requiring that tariffs be filed in such a way that rate and service information is described accurately and fully for use both at the time of filing and in the future.

Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359. (Assistance for the hearing impaired is available through TDD services (202) 275-1721.)

Environmental and Energy Considerations

We conclude that this action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Regulatory Flexibility Analysis

We conclude that this action will not have a significant adverse economic

impact on a substantial number of small business entities, although it will reduce the cost of tariff filing for a number of small carriers.

List of Subjects in 49 CFR Parts 1312 and 1314

Freight forwarders, Maritime carriers, Motor carriers, Pipelines, Railroads.

Authority: 49 U.S.C. 10321, 10708, 10761, and 10762, and 5 U.S.C. 553.

Decided: October 13, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners André, Lamboley, and Phillips.

Noreta R. McGee,

Secretary.

[FR Doc. 89-24694 Filed 10-18-89; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 54, No. 201
Thursday, October 19, 1989

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

DEPARTMENT OF VETERANS AFFAIRS

DEPARTMENT OF DEFENSE

38 CFR Part 21

RIN 2900-AE08

Veterans Education; Increase in Rates Payable in the Educational Assistance Test Program

AGENCY: Department of Veterans Affairs.

ACTION: Proposed regulations.

SUMMARY: The law provides that rates of subsistence allowance and educational assistance payable under the Educational Assistance Test Program shall be adjusted annually based upon the average actual cost of attendance at public institutions of higher education in the twelve-month period since the rates were last adjusted. After consultation with the Department of Education, the Department of Defense has concluded that these rates should be increased by 6 percent. The regulations dealing with these rates are adjusted accordingly.

DATES: Comments must be received on or before November 20, 1989. Comments will be available for public inspection until November 28, 1989. It is proposed to make this rate increase retroactively effective on October 1, 1988.

ADDRESSES: Send written comments to: Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, room 132, of the above address between the hours of 8 a.m. to 4:30 p.m., Monday through Friday (except holidays) until November 28, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Alan Zoeckler, Acting Assistant Director for Education Policy and Program Administration, Vocational Rehabilitation and Education Service, Veterans Benefits Administration, (202) 233-2092.

SUPPLEMENTARY INFORMATION: The law (10 U.S.C. 2145) provides that the Secretary of Defense shall adjust the amount of educational assistance which may be provided in any academic year under the Educational Assistance Test Program, and the amount of subsistence allowance authorized under that program. The adjustment is to be based upon the twelve-month increase in the average actual cost of attendance at public institutions of higher education. As required by law, the Department of Defense has consulted with the Department of Education and determined that these costs have increased 6 percent. This proposal adjusts 38 CFR 21.5820 and 21.5822 so that all rates which appear in them are based on an annual limit on educational assistance of $1753, and monthly payment of subsistence allowance for full-time students of $437.

It is proposed to make these increases effective October 1, 1988. Retroactive effect is warranted because these changes are liberalizing, and because they are interpretive rules which implement and construe the meaning of a law. Moreover, there is good cause for a retroactive effective date of October 1, 1988. Such a date facilitates implementation of 10 U.S.C. 2145 which requires annual adjustments in educational assistance.

The Department of Veterans Affairs (VA) and the Department of Defense have determined that these amended regulations do not contain a major rule as that term is defined by E.O. 12291, entitled Federal Regulation. The regulations will not have a $100 million annual effect on the economy, and will not cause a major increase in costs or prices for anyone. They will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Secretary of Veterans Affairs and the Secretary of Defense have certified that these amended regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), the amended regulations, therefore, are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because the regulations make adjustments required by law, and because they affect only individuals. They will have no significant economic impact on small entities, i.e., small businesses, small private and nonprofit organizations and small governmental jurisdictions.

There is no Catalog of Federal Domestic Assistance number for the program affected by these regulations.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: July 6, 1989.

Edward J. Derwinski,

Secretary of Veterans Affairs.

Dated: September 5, 1989.

Donald W. Jones,

Lieutenant General, USA, Deputy Assistant Secretary of Defense (Military Manpower & Personnel Policy).

38 CFR part 21, Vocational Rehabilitation and Education, is proposed to be amended as follows:

PART 21—[AMENDED]

1. In § 21.5820, the introductory text of paragraph (b), (b)(1)(ii) (A) and (B), and (b)(2)(ii) (A) and (B) are revised to read as follows:

§ 21.5820 Educational assistance.

* * * * *

(b) *Amount of education assistance.* The amount of educational assistance may not exceed $1753 per standard academic year, adjusted annually by regulation.

(Authority: 10 U.S.C. 2143)

(1) * * *

(ii) * * *

(A) Multiplying the number of whole months in the enrollment period by $194.78 for a full-time student or by $97.39 for a part-time student;

(B) Multiplying any additional days in the enrollment period by $6.49 for a full-time student or by $3.25 for a part-time student; and

(Authority: 10 U.S.C. 2143)

* * * * *

(2) * * *

(ii) * * *

(A) Multiplying the number of whole months in the enrollment period by $194.78 for a full-time student or by $97.39 for a part-time student;

(B) Multiplying any additional days in the enrollment period by $6.49 for a full-time student or by $3.25 for a part-time student; and

(Authority: 10 U.S.C. 2143)

* * * * *

2. In § 21.5822, paragraphs (b)(1) (i) and (ii) and (b)(2) (i) and (ii) are revised to read as follows:

§ 21.5822 Subsistence allowance.

* * * * *

(b) * * *

(1) * * *

(i) If a person is pursuing a course of instruction on a full-time basis, his or her subsistence allowance is $437 per month, adjusted annually by regulation.

(ii) If a person is pursuing a course of instruction on other than a full-time basis, his or her subsistence allowance is $218.50 per month.

(Authority: 10 U.S.C. 2144)

* * * * *

(2) * * *

(i) VA shall determine the monthly rate of subsistence allowance payable to a person for a day during which he or she is pursuing a course of instruction full-time by dividing $437 per month by the number of the deceased veteran's dependents pursuing a course of instruction on that day.

(ii) VA shall determine the monthly rate of subsistence allowance payable to a person for a day during which he or she is pursuing a course of instruction on other than a full-time basis by dividing $218.50 per month by the number of the deceased veteran's dependents pursuing a course of instruction on that day.

(Authority: 10 U.S.C. 2144)

* * * * *

[FR Doc. 89-24722 Filed 10-18-89; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 372

[OPTS-400035; FRL-3660-9]

Cadmium Sulfide and Cadmium Selenide; Toxic Chemical Release Reporting; Community Right-to-Know

AGENCY: Environmental Protection Agency (EPA).

ACTION: Denial of petition.

SUMMARY: EPA is denying a petition to delist cadmium sulfide (CdS) and cadmium selenide (CdSe) from the list of toxic chemicals under section 313 of the Emergency Planning and Community Right-To-Know Act of 1986. The decision to deny the petition is based on a weight of evidence determination that these chemicals cause or can reasonably be anticipated to cause cancer as well as other serious or irreversible health effects and environmental effects.

FOR FURTHER INFORMATION CONTACT: Robert J. Israel, Petition Coordinator, Emergency Planning and Community Right-to-Know Information Hotline, Environmental Protection Agency, Mail Stop OS-120, 401 M Street SW., Washington, DC 20460, Toll free: 800-535-0202, In Washington, DC, and Alaska, 202-479-2449.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Statutory Authority

The response to this petition is issued under sections 313 (d) and (3)(1) of The Emergency Planning and Community Right-to-Know Act of 1986 (Pub. L. 99-499, "EPCRA"). EPCRA is also referred to as title III of the Superfund Amendments and Reauthorization Act of 1986.

B. Background

Section 313 of EPCRA requires certain facilities that manufacture, process, or use toxic chemicals to report annually their environmental releases of such chemicals. Section 313 establishes an initial list of toxic chemicals that is composed of more than 300 chemicals and chemical categories. Any person may petition the Agency to add chemicals to or delete chemicals from the list.

EPA issued a statement of petition policy and guidance in the **Federal Register** of February 4, 1987 (52 FR 3479), to provide guidance regarding the recommended content and format for submitting petitions. EPA must respond to petitions within 180 days either by initiating a rulemaking or by issuing an explanation of why the petition is denied.

II. Description of Petition

On April 14, 1989, EPA received a petition from SCM Chemicals, Inc., to delete CdS and CdSe from the list of toxic chemicals. CdS and CdSe are included within the category listing of cadmium compounds. The chemical properties and uses of the two chemicals are similar; therefore, EPA elected to review them together. The petition was based on SCM's contention that CdS and CdSe are not toxic and do not meet the section 313 criteria for listing. The statutory deadline for EPA's response is October 11, 1989.

III. EPA's Review of CdS and CdSe

A. Chemistry Profile

CdS is a yellow-orange powder. CdS ore occurs in nature, but CdS can also be synthesized by several methods. CdS has a melting point of greater than 999 °C and a water solubility of 0.13 mg/100g H_2O.

CdSe is a greenish-brown or red powder. CdSe can be prepared by passing hydrogen selenide into an acidified solution of soluble cadmium salts. The meeting point of CdSe is greater than 1350 °C, and it is reported to be insoluble in water, although quantitative data were not found.

B. Toxicity Evaluation

The major argument presented by the petitioner for delisting CdS and CdSe is that, because of their low solubility and low bioavailability, the compounds do not pose the same health and environmental risks as other cadmium compounds.

In response, EPA assessed information on the health and environmental hazards of CdS and CdSe and of cadmium ion itself. Data on cadmium ion are considered pertinent in view of the facts that: (1) The toxicity of cadmium compounds is acknowledged to be due to the cadmium cation, not the complementary anion; (2) the toxicity of CdS or CdSe would be a function of the availability of the cadmium ion; (3) data provided by the petitioner and additional data obtained in EPA's review show that some amounts of cadmium ion are available from these compounds to affect susceptible tissues. Because most of the effects of cadmium ion are produced at very low doses, it is possible that the quantities of cadmium ion released from CdS or CdSe would be toxic.

Futhermore, the well-documented accumulation and persistence of cadmium in humans and animals add

weight to the concerns for the toxicity of cadmium ion. The consequences of adding to the body burden of cadmium could become apparent when physiological resilience is diminished.

1. *Absorption/bioavailability.* Available data show that cadmium ion is bioavailable from CdS. There are no data on the bioavailability of cadmium ion from CdSe. However, based on the data on CdS, as well as other relatively insoluble cadmium compounds such as cadmium carbonate (water solubility = 0.0028 mg/100g H_2O), cadmium ion is also expected to be bioavailable from CdSe. Additional support for this conclusion comes from data on rats exposed to a mixture of CdSe and CdS pigments which showed that cadmium ion is bioavailable.

Animal data show that cadmium ion from CdS and CdSe is absorbed to some extent from the lung and that the cadmium ion from CdS is absorbed to some extent from the gastrointestinal (GI) tract.

Cadmium also warrants scrutiny because of its high bioaccumulation potential. The half-life of cadmium in humans is not exactly know, but it is many years and may be as long as 30 years.

2. *Carcinogenicity.* Based on a weight of evidence determination derived from data on CdS and other cadimum compounds, it is reasonable to anticipate that CdS and CdSe will cause cancer in humans. There is limited evidence from epidemiologic studies but sufficient evidence of carcinogenicity in rats and mice by multiple routes of administration.

CdS produced an increased incidence of tumors by three routes of administration in the rat. Lung tumors were increased following chronic inhalation exposure, and injection site tumors were produced after subcutaneous or intramuscular administration. There is, at present, inadequate evidence to conclude that cadmium is carcinogenic via ingestion.

CdSe has not been tested for carcinogenicity. Other cadmium compounds of various degrees of water solubility (cadmium chloride, cadmium sulfate, and cadmium oxide) have been tested by multiple routes of exposure and shown to increase tumor incidence following inhalation or injection routes. Cadmium compounds (cadmium acetate, cadmium sulfate, cadmium chloride) administered orally have not increased tumor incidence in rats or mice.

Thus, based on the carcinogenic activity of CdS and other cadmium compounds, CdSe is expected to have carcinogenic potential. The carcinogenic activity of cadmium compounds does not appear to be based on water solubility.

Mutagenicity data on several cadmium salts provide support for the possibility that CdS and CdSe may be heritable genotoxicants. Furthermore, CdS itself induces chromosome aberrations in human cells in culture and DNA effects and cell transformation in mammalian cells in culture.

3. *Other health effects.* Although the target organ of cadmium toxicity is the kidney, other adverse effects may occur in the liver, lung, and skeleton. In addition, there is a large amount of data on the development/reproductive system toxicity of other cadmium salts. Studies by several routes of administration (i.e., inhalation, diet, gavage, injection, and drinking water) in several animal species demonstrate these effects at low (milligram per kilogram) levels.

4. *Aquatic toxicity.* Both CdS and CdSe will partition predominantly into sediments, where they are anticipated to break down into their cadmium, sulfate, and selenium components by microbes or under aerobic/anaerobic and high/low pH conditions.

Cadmium may cause severe acute toxicity in fish and invertebrates, with freshwater biota being more sensitive than marine organisms. Water concentrations of 0.8 to 9.9 ppb. of cadmium were acutely toxic to invertebrates and to fish. Sublethal or chronic effects were noted for these groups at 0.7 to 5.0 ppb. Cadmium is also toxic to freshwater species (algae).

Both freshwater and marine organisms can bioaccumulate cadmium from water containing cadmium concentrations that are not considered hazardous to these organisms. Humans may then consume the fish that have bioaccumulated concentrations of these cadmium compounds in their adipose tissues. Bioconcentration factors are as high as 4,900 for fish, 2,720 for a mollusk, 2,550 for an alga, and 2,200 for an aquatic insect.

B. Use, Release and Exposure

1. *Production and use.* The 1988 U.S. production volumes have been estimated to be 2.2 million pounds for CdSe and 1.5 million pounds for CdS. There chemicals are manufactured at four sites.

All cadmium pigments are based on CdS, which produces a golden-yellow pigment when precipitated, dried, and calcined. The cadmium pigment class also includes blends of CdS with zinc or mercury sulfides and with CdSe to produce colors ranging from lemon-yellow to maroon.

Approximately 85 percent of cadmium pigment uses are in plastics such as acrylonitrile-butadiene-styrene (ABS), terpolymer, and high-density polyethylene. The remaining 15 percent is used in ceramics, paints and coatings, and miscellaneous uses.

2. *Exposure and release.* Release estimates for CdSe and CdS were based on data on Toxic Release Inventory forms submitted under section 313 and estimates made by EPA's Office of Air Quality Planning and Standards. EPA estimates were based on information provided under TRI, section 114 (Clean Air Act) responses, EPA source tests, and emissions factors. For both these estimates the releases of cadmium pigments are reported as cadmium based on the weight of the cadmium portion of the pigment.

a. *Air.* The largest source of air emissions of CdS and CdSe result from manufacturing operations. EPA estimates air emissions of cadmium pigment to range up to 2 kg/site/day (on the weight of cadmium). There daily emissions translate into a worst-case individual annual exposure of 0.905 mg/yr.

b. *Water.* The largest source of water releases results from manufacturing operations. Concentrations of these releases in receiving streams were calculated and compared with the EPA ambient water quality criteria for cadmium. Concentrations at one of the manufacturing sites exceeded the criteria over 300 days of a 350-day release. Water releases from processing operations were also found to exceed the water quality criteria value over 300 days of a 350-day release.

3. *Land.* Indirect releases (Publicly Owned Treatment Works sludge) from manufacturing operations may go to unrestricted landfills and be available for leaching. Landfill wastes from processing facilities have been estimated to range up to 2,400 kg/yr/site. Since these wastes are of the neat pigments, it is expected that they do not have to be disposed of in hazardous waste facilities and therefore may become available for leaching.

C. Summary of Technical Review

CdS and CdSe can be reasonably anticipated to cause cancer in humans. This conclusion is based on available cancer data on CdS and other cadmium compounds and it is supported by mutagenicity data on CdS and other cadmium compounds.

CdS and CdSe also can be reasonably anticipated to cause developmental/reproductive system toxicity and mutagenicity in humans. For these

effects, the conclusion is based on data on other cadmium compounds showing that the cadmium ion produces these effects at low doses. The available data on other cadmium salts demonstrate that CdS and CdSe may be toxic to aquatic species at very low doses and may have the potential to bioaccumulate in these species.

There are releases of CdSe and CdS to air, land, and water during its manufacture, processing, and use. The water releases may cause exceedances of the national water quality criteria. Air releases may result in inhalation exposure to humans and there is possible leaching of these compounds from landfills at use sites.

IV. Explanation of Denial

A. General Policy

EPA has broad discretion in determining whether to grant or deny petitions under section 313. When granting a petition, EPA has an obligation to show how the granting of the petition fulfills the statutory criteria EPA is to use in section 313(d) when modifying the list of toxic chemicals. When denying a petition, the Agency must issue an explanation of why the petition is denied. In the Joint Conference Committee Report, the conferees made clear that EPA may conduct risk assessments or site-specific analyses in making listing determinations under section 313(d). EPA has concluded that potential exposure can be considered in making decisions to revise the chemicals on the list. In all evaluations, EPA has discretion to consider a variety of factors to determine whether it is appropriate to add chemicals to or delete chemicals from the list, albeit limited in the case of petitions under section 313(d) by the 180-day period.

B. Reason for Denial

EPA is denying the petition submitted by SCM Chemicals, Inc., to delete CdS and CdSe from the section 313 list of toxic chemicals. The decision to deny the petition is based on a weight of evidence determination that the chemicals can reasonably be anticipated to cause serious or irreversible health effects. CdS and CdSe can reasonably be anticipated to cause cancer in humans and there is evidence, from studies of other cadmium salts, that CdS and CdSe may cause developmental/reproductive system toxicity and mutagenicity in humans. There is also evidence, from studies of other cadmium salts, to indicate that the cadmium ion released from these compounds is toxic to aquatic species at very low doses.

V. Administration Record

The record supporting this decision is contained in docket control number OPTS–400035. All documents, including an index of the docket, are available to the public in the TSCA Public Docket Office from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The TSCA Public Docket Office is located at EPA Headquarters, Room NE–G004, 401 M Street SW., Washington, DC 20460.

List of Subjects in 40 CFR Part 372

Community right-to-know, Environmental protection, Reporting and recordkeeping requirements, Toxic chemicals.

Dated: October 11, 1989.

Linda J. Fisher,

Assistant Administrator, Office of Pesticides and Toxic Substances.

[FR Doc. 89–24674 Filed 10–18–89; 8:45 am]

BILLING CODE 6560–50–M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1105 and 1152

[Ex Parte No. 274 (Sub-No. 13A)]

Rail Abandonments—National Trails System Improvements Act

AGENCY: Interstate Commerce Commission.

ACTION: Petition for rulemaking granted; comments requested.

SUMMARY: The Commission grants a joint petition, by the Rails to Trails Conservancy and seven other parties, to begin a rulemaking proceeding. Petitioners seek rules designed to implement the National Trails System Improvements Act of 1988: (1) Requiring railroads abandoning lines to notify the Secretary of the Interior and the Secretary of Agriculture whether, to what extent, and under what statutory authority, lines proposed to be abandoned contain any right-of-way that was federally granted; and (2) requiring the Commission to stay the effectiveness of any abandonment if Interior or Agriculture request that the railroad furnish them title information reasonably available from the railroad's files or files of its agents. Petitioners suggest amending environmental regulations in 49 CFR part 1105. Other title 49 parts, such as 1152, may be more appropriate. The Commission seeks comments from Interior, Agriculture, and any other interested parties, especially about respective roles and burdens in implementing the Act.

DATES: Written comments must be filed with the Interstate Commerce Commission no later than November 20, 1989.

ADDRESSES: Send an original and 10 copies of all comments to: Office of the Secretary, Case Control Branch, Attn: Ex Parte No. 274 (Sub-No. 13A), Interstate Commerce Commission, Washington, DC 20423.

In addition, send a copy of all comments to petitioners' representative: Charles H. Montange, 1400 16th St., NW, #301, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar (202) 275–7245, [TDD for hearing impaired (202) 275–1721.]

SUPPLEMENTARY INFORMATION: The Commission grants a joint petition [1] for rulemaking to consider whether to adopt rules to implement the National Trails System Improvements Act of 1988 (Improvements Act), Public Law No. 100–470, which amends The National Trails System Act. The purpose of the Improvements Act is to further the use of abandoned railroad rights-of-way for both recreational trail and conservation purposes.[2] Section 3 of the Improvements Act, codified at 16 U.S.C. 1248(c) *et seq.*, provides that in the event of future abandonments of railroad rights-of-way previously granted by the United States, the United States will retain whatever interests it may have in those rights-of-way so that they may be managed for recreational trail purposes and other consistent uses.[3]

Section 1248(c) is the focus of this proceeding. It provides:

> Commencing upon the date of enactment of this subsection, any and all right, title, interest, and estate of the United States in all rights-of-way of the type described in the Act of March 8, 1922 (43 U.S.C. 912), shall remain in the United States upon the abandonment of forfeiture of such rights-of-way, or portions thereof, except to the extent that any such right-of-way, or portion thereof, is embraced within a public highway no later than one year after a determination of abandonment or forfeiture, as provided under such Act.

Sections 1248 (d) and (e) provide for the management and disposition of reverted property. The U.S. Department of the Interior (Interior) is responsible for managing and disposing of reverted property. Petitioners suggest that the U.S. Department of Agriculture

[1] Petitioners include Rails to Trails Conservancy, American Hiking Society, League of American Wheelmen, Heritage Trails Fund, American Trails, American Horse Council, Minnesota Department of Natural Resources, and Washington State Parks and Recreation Commission.

[2] H.R. Rep. No. 572, 100th Cong., 2d Sess., (1988); and S. Rep. No. 400, 100th Cong., 2d Sess., (1988).

[3] *Id.*

(Agriculture) also may have implementing responsibilities.

Petitioners argue that Interior and Agriculture will need help in identifying "section 1248(c) property" and knowing when that property is being abandoned. According to petitioners, neither Interior nor Agriculture has information or information retrieval systems capable of giving them such information in a timely fashion within budget constraints. Because this Commission regulates rail line abandonments, petitioners maintain that we could help Interior and Agriculture in this regard. Petitioners recommend various modifications of the Commission's environmental regulations, codified at 49 CFR part 1105, as set forth in detail in our decision.

We seek comments from all interested parties, especially from both Agriculture and Interior describing their roles in implementing the Improvements Act and how we can assist. It will be helpful to us to understand: (1) What resources Interior and Agriculture have marshalled to date to implement section 1248(c); (2) the process Interior will use to reclaim affected property; and (3) how the proposed notice and title information would be used.

While we are not proposing specific rules, all parties are placed on notice that, following receipt of comments, we intend to adopt final rules. We seek to develop rules that meet implementation needs but at the same time minimize the burden on the industry to the extent possible.[4]

Additional information is contained in the Commission's decision. To obtain a copy of the full decision, write to, call, or pick up in person from: Office of the Secretary, Room 2215, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 275–7428. Assistance for the hearing impaired is available through TDD services (202) 275–1721.

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

[4] Petitioners state that because their proposed amendments relate to the Commission's environmental regulations implemented by the Commission's Section of Energy and Environment, they have informally discussed them with the staff of that Section. According to petitioners, they have been advised that the Section has no objection to the proposed amendments and foresees no additional significant burden upon itself in terms of implementing the proposals.

However, the Commission's Section of Energy and Environment denies that it has made any statements or agreement or has given any assurances regarding the merits of petitioners' proposals. In any event, it would not have been appropriate for that office to have provided any opinion in these matters.

Adopted rules would appear to have no significant impact on a substantial number of small entities because only minor notice and informational requirements would be involved, and most of the involved carriers do not qualify as small entities.

List of Subjects in 49 CFR part 1105

Environmental impact statements, Reporting and recordkeeping requirements

List of Subjects in 49 CFR part 1152

Administrative practice and procedure, Conservation, Environmental protection, National forests, National parks, National trails system, National resources, Public lands—grants, Public lands—rights-of-way, Railroads, Recreation and recreation areas, and Reporting and recordkeeping requirements.

Authority: 5 U.S.C. 553, 16 U.S.C. 1248(c); and 49 U.S.C. 10321, 10505, 10903, and 10904.

Decided: October 10, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips.

Noreta R. McGee,

Secretary.

[FR Doc. 89–24577 Filed 10–18–89; 8:45 am]

BILLING CODE 7035–01–M

Notices

Federal Register
Vol. 54, No. 201
Thursday, October 19, 1989

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

October 13, 1989.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Public Law 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USD, OIRM, Room 404–W Admin. Bldg., Washington, DC 20250, (202) 447–2118.

Emergency

- Animal and Plant Health Inspection Service,

National Animal Health Monitoring Systems (NAHMS), NAHMS–5, 6, 7, 8, 9, and 10, Monthly; Annually,
Farms; 70,000 responses; 12,740 hours; not applicable under 3504(h),
Dr. William D. Hueston (303) 493–1900.

- Farmers Home Administration,

7 CFR 1956–C, Debt Settlement—Community and Business Programs,
None,
On occasion,
Individuals or households; State or local governments; Businesses or other for-profit; Non-profit institutions; Small businesses or organizations; 18 responses; 9 hours; not applicable under 3504(h),
Jack Holston (202) 382–9736.

Extension

- Economic Research Service,

Honey Producers, Packers, Importers and Brokers Survey,
None,
On occasion,
Individual or households; Farms; Business or other for-profit; Small businesses or organization; 2,131 responses; 2,131 hours; not applicable under 3504(h),
Frederic L. Hoff, (202) 286–1883.

New Collection

- Food and Nutrition Service,

Supplement to Financial Status Report—Administrative Costs in Nutrition Education and Training Program,
FNS–665,
Quarterly,
State or local governments; 60 responses; 15 hours; not applicable under 3504(h),
Chris Lipsey, (703) 756–3048.

Larry K. Roberson,

Acting Departmental Clearance Officer.

[FR Doc. 89–24645 Filed 10–18–89; 8:45 am]

BILLING CODE 3410–01–M

Office of the Secretary

[Docket No. 89–027N]

National Advisory Committee on Microbiological Criteria for Foods; Meetings

Notice is hereby given that a meeting of the Hazard Analysis Critical Control Points (HACCP) Subcommittee of the National Advisory Committee on Microbiological Criteria for Foods, will be held on Monday and Tuesday, November 6–7, 1989. Meetings are scheduled from 1:00 p.m. to 5:00 p.m. on Monday and from 8:30 a.m. to 5:00 p.m. on Tuesday at the Radisson Hotel, 1400 Milwaukee Avenue, Glenview, Illinois 60025.

The Committee provides advice and recommendations to the Secretaries of Agriculture and Health and Human Services concerning the development of microbiological criteria by which the safety and wholesomeness of food can be assessed, including criteria for microorganisms that indicate whether foods have been produced using good manufacturing practices.

The subcommittee, which is comprised of committee members, will be meeting to review and finalize the HACCP recommendations for presentation to the full committee November 27–29, 1989.

The meetings are open to the public on a space available basis. Comments of interested persons may be filed before or after the meeting in order that they may be considered and should be addressed to Ms. Catherine M. DeRoever, Director, Executive Secretariat, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 3175, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20250. In submitting comments, please reference the docket number appearing in the heading of this notice. Background materials are available for inspection by contacting Ms. DeRoever on (202) 447–9150.

Done at Washington, DC on: October 13, 1989.

Lester M. Crawford,

Chairman.

[FR Doc. 89–24664 Filed 10–18–89; 8:45 am]

BILLING CODE 3410–PM–M

Agricultural Marketing Service

[FV–89–099]

Navel Oranges Grown in Arizona and Designated Part of California; Marketing Policy for the 1989–90 Season

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of marketing policy.

SUMMARY: This notice sets forth a summary of the 1989–90 marketing policy for navel oranges grown in Arizona and a designated part of California. The marketing policy was discussed and approved on September 19, 1989, by the Navel Orange Administrative Committee, which locally administers the marketing order covering California-Arizona navel oranges. The marketing policy contains

information on crop and market prospects for the 1989–90 season.

DATE: Written suggestions, views, or pertinent information relative to the marketing of the 1989–90 California-Arizona navel orange crop will be considered if received by November 20, 1989.

ADDRESS: Interested persons are invited to submit written statements in triplicate to: Docket Clerk, Room 2525–S, F&V, AMS, USDA, P.O. Box 96456, Washington, DC 20090–6456. Such submissions should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Jacquelyn R. Schlatter, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 447–8139. Growers and handlers of navel oranges may obtain a copy of the marketing policy directly from the Navel Orange Administrative Committee. Copies of the marketing policy are also available from Ms. Schlatter.

SUPPLEMENTARY INFORMATION: Pursuant to § 907.50 of the marketing order covering navel oranges grown in Arizona and designated part of California, the Navel Orange Administrative Committee, hereinafter referred to as the "committee," is required to submit a marketing policy to the Secretary prior to recommending volume (prorate) or size regulations for the ensuing season. The order, issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act, authorizes volume and size regulations applicable to fresh shipments of navel oranges to domestic markets which are defined by the order to include Canada. Regulation of export shipments of navel oranges and navel oranges utilized in the production of processed orange products is not authorized under the order.

Prior to the recommendation for regulation for each prorate district specified in the order, the committee submits to the Secretary its marketing policy for the ensuing season. The marketing policy contains the following information: (1) The available crop of oranges in the prorate district, including estimated quality and composition of sizes; (2) the estimated utilization of the crop, showing the quantity and percentages of the crop that will be marketed in domestic, export, and by-product channels, together with quantities otherwise to be disposed of; (3) a schedule of estimated weekly shipments to be recommended to the Secretary during the ensuing seasons; (4) available supplies of competitive oranges in all producing areas of the United States; (5) level and trend of consumer income; (6) estimated supplies of competitive citrus commodities; and (7) any other pertinent factors bearing on the marketing of oranges. In formulating its marketing policy, the committee should give due considering to the onset and duration of prorate and any size regulation. In the event that it becomes advisable to substantially modify the marketing policy, the committee submits to the Secretary a revised marketing policy setting forth the information as required in this paragraph.

The committee adopted its marketing policy for the 1989–90 marketing season at its September 19, 1989, meeting in Los Angeles, California. Various meetings to develop, discuss and review the committee's marketing policy were held throughout the production area on September 8 in Visalia, California, on September 11 in Riverside, California, on September 13 in Yuma, Arizona, on September 15 in Orland, California, on September 26 in Visalia, California, and on October 3 in Ontario, California. Substantial numbers of industry representatives were present at many of these meetings.

The marketing policy is intended to inform the Secretary and persons in the industry of the committee's plans for recommending regulation of shipments during the marketing season and the basis therefor. The committee evaluates market conditions and makes recommendations to the Secretary as to the quantity of navel oranges that can be shipped each week to domestic outlets during the season, without disrupting markets. Under certain conditions, the committee may recommend size regulations applicable to fresh domestic shipments.

In addition to providing the Secretary with information specified in the marketing order about crop and marketing conditions, the policy statement affords an opportunity for growers and handlers to gain a broad perspective of the industry as it relates to all prorate districts and supplies a view of the anticipated economic environment in which the total crop will be marketed. The committee identified an array of general considerations in formulating its 1989–90 marketing policy.

One of the considerations the committee discusses pertains to the nature of the navel orange as a round, relatively seedless, easy-to-peel fruit which has a widely accepted flavor and color. However, as the committee emphasizes, from season to season, this quality may be highly variable and may even change drastically during the course of the harvest. In addition, the characteristics of each crop of navel oranges are now known at the time the marketing policy is developed.

Another consideration is that the total amount of the crop available to be sold is not known at the time the marketing policy is developed. The total amount of navel oranges predicted to be available is derived from the crop estimate which is based on handler questionnaires and in-grove counts and measurements. The total crop estimate is regularly revised by the committee on the basis of surveys of the harvest in-progress and on-going grove measurements by committee staff and employees. This sometimes results in changes in the crop estimate as late as the final weeks of harvest. The committee observes that this is primarily due to weather. Drought can reduce production estimate as late as the final weeks of harvest. The committee observes that this is primarily due to weather. Drought can reduce production and cause crop failure; freezes can destroy maturing crops in the field; floods can make it impossible to cultivate or harvest.

Citrus fruit, which includes navel oranges, is especially vulnerable to freezes. Navel oranges for the fresh market can be held on the tree for an extended period but they cannot be stored for long periods without loss of quality or spoiling after picking. Storage on the tree has proven to be useful in extending shipments throughout the marketing season. However, navel oranges stored on the tree are more susceptible to freeze damage. In some seasons, the California-Arizona navel orange industry has suffered serious crop losses or downgrading of fruit quality when navel oranges are left on the tree throughout the winter months.

The length of the marketing season, which can vary greatly, is also not known at the time of development of the marketing policy. Traditionally, the marketing season for navel oranges begins when earlier navel orange cultivars turn color from green to orange and reach maturity under State of California standards, and continues as long as fruit has "shipping quality." Thus, the marketing season can begin as early as October and last until late May or early June. Weather can cause a shortened marketing period or extend the season to the point where California-Arizona navel oranges are in

direct competition with California-Arizona Valencia oranges.

Thus, the committee observes, at the time of the development of the marketing policy, it may not be able to project with certainty the oranges available, and the length of the marketing season due to the variable factors previously discussed.

The aim of the committee is to put as much fruit into domestic fresh fruit channels as can be sold, consistent with income maximization and without price fluctuations which could damage the economic structure of the industry. This has involved extending the period of harvest and packing so that no single week's shipments result in over-supplies which could exceed demand. The committee, therefore, develops a proposed shipping schedule which is prepared on the basis of the initial crop estimate and adjusted with each revised estimate throughout the season.

The committee believes that, theoretically, adhering to such a proposed schedule could produce orderly marketing and economic success. However, a look at the two most recent seasons show how different two seasons can be when shipments were nearly identical. During the 1987–88 season, the industry shipped 45,087 cars to domestic fresh fruit channels; during the 1988–89 season, shipments were nearly identical—45,481 cars. However, in the first season, the average number of navel oranges per carton was 68, while in the 1988–89 season, it was 96 per carton. Navel oranges are primarily an out-of-hand eating fruit and are not satisfactory either for making juice or cooking. Thus, the difference in the number of oranges per carton meant that United States and Canadian consumers bought over a billion more oranges in 1988–89 than in the previous season in order for the industry to achieve comparable sales.

In seasons of abnormal size patterns, the industry must be especially careful in managing the flow of fruit to market in order to avoid building excessive inventories in the marketing chain and subsequently depressing prices. The committee has an interest both in orderly movement and pricing under its marketing order responsibilities. The actions of the committee must be taken on a timely basis to meet conditions which can change as rapidly as the weather. While weather-related problems have been the most common, they may not be the only problems to be faced in the future.

The committee believes that the marketing order for navel oranges continues to be a viable marketing tool. Domestic fresh shipments have increased to the point where 45,000 cars—once considered impossible—is now an accepted minimum. Total navel orange acreage in the production area totals 122,079, the highest in 15 years. Of this, nearly 5,000 is non-bearing new groves.

In its 1989–90 marketing policy, the committee projected the California-Arizona navel orange crop at 73,350 cars (one car equals 1,000 cartons at 37.5 pounds net weight each). This compares with last year's total production of 70,633 cars.

The committee estimates District 1, Central California, 1989–90 production at 63,500 cars compared to the 59,937 cars produced in 1988–89. In District 2, Southern California, the crop is expected to be 8,500 cars compared to the 9,282 cars produced last year. In District 3, the Arizona-California desert valley, the committee estimates a production of 900 cars compared to 919 cars in 1988–89. In District 4, Northern California, a 450-car crop is projected compared to 495 cars last year.

In terms of total crop utilization, the committee expects 68 percent of the 1989–90 crop to be accounted for in domestic fresh fruit markets compared with 64 percent in 1988–89; fresh exports are projected to require 10 percent of total 1989–90 utilization, the same as the 1988–89 season; and processing and other uses would account for the residual 22 percent compared with 26 percent in the last season. Expressed in terms of the actual volumes of navel oranges shipped or processed, domestic fresh fruit market shipments would be up about 8 percent from 1988–89 estimates, export shipments would be up about 8 percent, and processed and other utilization would decrease approximately 10 percent.

The committee estimates that shipments to domestic fresh fruit outlets, including Canada, during the 1989–90 season will account for 49,500 cars. Last year a total of 45,581 cars were shipped to fresh fruit domestic markets. Fresh export shipments are expected to total 7,500 cars compared to 6,885 cars last year. Processing and other dispositions are forecast at 16,350 cars compared to 18,167 cars last year. The committee expects that the fresh domestic market will absorb all the fruit that meets quality standards and which is economically feasible to ship.

The committee has projected that the overall quality of this year's crop will be excellent in all districts and a large portion of the navel orange crop will be in the preferred size ranges. Throughout the production area, the fruit appears well formed, somewhat more ovoid than last year, and of normal texture for fruit in the size ranges indicated. This would tend to indicate that internal texture should be good to excellent.

The committee reports that Florida round orange production is expected to be 281,600 cars, about 4 percent less than last year. In Texas, orange production for the 1989–90 season is expected to be 3,150 cars, a decrease of approximately 15 percent from last season. Production of apples is estimated at 236.01 million bushels in 1989–90 compared to 218.04 million bushels in 1988–89. Fresh shipments of winter pears are estimated at a record 12.51 million bushels in 1989–90 compared to 12.47 million bushels last year. Of increasing importance in considering the supplies of competitive non-citrus fruits as "summer fruit" importations from Chile (e.g. nectarines, plums, and peaches), and it is expected that this upward trend will continue for some time. Thus, imports of Chilean fruit in 1989–90 are expected to be greater than in 1988–89.

According to preliminary data reported by the National Agricultural Statistics Service and the committee, the 1988–89 season average fresh on-tree price for California-Arizona navel oranges is $3.72 per carton, 62 percent of the season average parity equivalent price of $5.98 per carton.

The current point estimate of the 1989–90 season average fresh on-tree price is $4.46 per carton, 68 percent of the projected season average fresh on-tree parity equivalent price of $6.52 per carton. Under the current estimate, the probability that the 1989–90 season average fresh on-tree price will exceed the projected season average fresh on-tree parity equivalent price is less than one percent.

In discussing the possible need for prorate regulation early in the season, the marketing policy indicated that the beginning of harvest is expected to start somewhat earlier this year than a year ago. Therefore, the committee anticipates that volume regulation could be recommended earlier than last year.

Based on current projections, shipments are expected to begin at the beginning of October and finish in late May. The committee has developed a schedule of estimated weekly shipments covering the 1988–89 season.

The marketing order identifies areas the committee should consider in recommending prorate regulation during a particular week and states that the committee, in making its recommendation, shall provide equity of marketing opportunity to handlers in all districts and shall give due consideration to the following factors:

(1) Market prices for oranges, including market prices by grades and sizes; (2) the supply of oranges on track at, and en route to, the principal markets; (3) the supply, maturity, and condition of oranges in the area of production including the grade and size composition; (4) market prices and supplies of citrus fruits from California, Arizona, and competitive producing areas as well as supplies of competitive fruits; (5) trends and level in consumer income; and (6) other relevant factors.

In order to provide an opportunity for public input, the Department will accept written views and information pertinent to the marketing policy and the need for, or level of, volume or size regulations for the 1988–89 season. Interested persons are also invited to comment on the possible regulatory and informational impact of this marketing policy and seasonal volume regulations on small businesses. This notice provides a 30-day period for the receipt of comments. This period is considered to be appropriate due to the number of meetings held throughout the production area, both prior to and subsequent to the adoption of the marketing policy, at which such policy was reviewed and discussed by industry representatives and other interested persons.

Publication of this summary of the marketing policy is to provide information as to potential regulations. This action does not create any legal obligations or rights, either substantive or procedural.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 13, 1989.

Robert C. Keeney,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 89–24649 Filed 10–18–89; 8:45 am]

BILLING CODE 3410–02–M

Farmers Home Administration

Change in Catalog of Federal Domestic Assistance Program Numbers

AGENCY: Farmer's Home Administration (FmHA), USDA.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public of changes in two Catalog of Federal Domestic Assistance (CFDA) program numbers for two Farmer's Home Administration (FmHA) programs. Although these programs were assigned CFDA numbers for administrative purposes, they have not as yet been listed in the CFDA.

DATE: October 19, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Warren Clayman, Environmental Protection Specialist, Program Support Staff, FmHA, Room 6309—South Building, Washington, DC 20250 (Telephone 202–382–9619).

SUPPLEMENTARY INFORMATION: On August 17, 1988, the FmHA published a notice in the **Federal Register**, listing three programs as being covered under Executive Order (EO) 12372, "Intergovernmental Review of Federal Programs."

The purpose of this notice is to make changes to two of those programs.

Those programs are:

10.437 Rural Development Loan Fund
10.438 Intermediary Relending Program

The following is a synopsis of the changes being made to the above mentioned programs:

10.437 Rural Development Loan Fund (RDLF)

This program will be removed from the CFDA and from the list of programs eligible for review under EO 12372.

The RDLF was a program that was originally administered by the Department of Health and Human Services. The purpose of the program was to provide loans to private and public nonprofit organizations to assist in the development of businesses in rural areas.

In September, 1986, the RDLF program was transferred to USDA. Congress then directed USDA to phase out the RDLF and institute a new program entitled the Intermediary Relending Program (IRP). This new program would serve as a revolving loan fund. As RDLF loan amounts are repaid by borrowers, the funds are then placed in the IRP to be reloaned for essentially the same purpose.

Because the RDLF is being phased out and replaced by a new program, no new loans or any other type of Federal assistance is being offered by the rule. For the purposes of USDA's portion of the CFDA, this program should not have been assigned a CFDA number or included in the Catalog as a Federal assistance program. The Intermediary Relending Program, however, will be included in the CFDA and will be eligible for review under EO 12372.

Therefore, through this notice, the RDLF program is being removed from USDA's list of programs eligible for review under EO 12372 and it will not appear in the CFDA. Program number 10.437 will be reserved for future use.

10.438 Intermediary Relending Program (IRP)

The only change being made to this program concerns the CFDA number. The new CFDA number for this program is 10.439. This program continues to be covered by EO 12372.

This program will appear in the 1989 CFDA.

Dated: October 2, 1989.

Neal Sox Johnson,

Acting Administrator, Farmers Home Administration.

[FR Doc. 89–24715 Filed 10–18–89; 8:45 am]

BILLING CODE 3410–07–M

Forest Service

Burnt Mountain Expansion of the Snowmass Ski Area, White River National Forest, Pitkin County, CO

AGENCY: Forest Service, USDA.

ACTION: Cancellation of Notice of Intent.

Aspen Skiing Company and the USDA Forest Service have jointly decided to terminate the environmental analysis of Aspen Skiing Company's proposal for expansion of the Snowmass Ski Area onto Burnt Mountain. The Notice of Intent, published in the **Federal Register** of January 2, 1987 is hereby cancelled.

The White River National Forest will periodically review progress of localities in addressing local issues which relate to ski area expansion to determine when and if the process will be restarted.

FOR FURTHER INFORMATION CONTACT: Meg Rauch, Environmental Coordinator, Box 948, Glenwood Springs, Colorado 81602. 303–945–7077.

Dated: October 10, 1989.

Gerald P. Hart,

Acting Forest Supervisor.

[FR Doc. 89–24680 Filed 10–18–89; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Administrative Proceeding Against Warren E. Thompson

In the matter of: Warren E. Thompson, respondent.

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (Department), having notified Warren E. Thompson (Thompson) of its intent to initiate an administrative proceeding against him pursuant to section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. 2401–2420 (Supp. 1989)) (the Act), and part 788 of the Export Administration Regulations

(15 CFR parts 768–799) (the Regulations),[1] based on allegations that Thompson committed:

1. One violation of § 787.5(a)(3) of the Regulations in that, between on or about September 13, 1983 and on or about April 25, 1984, Thompson made a representation of material fact to the Office of Export Administration and failed to notify either the Office of Export Administration or the Office of Export Enforcement after he received information which would lead a reasonably prudent person to believe that the material fact had changed; and

2. One violation of § 787.5(a)(1)(ii) of the Regulations in that, on or about April 30, 1984, Thompson indirectly made a false or misleading representation of material fact to a United States agency in connection with the preparation of an export control document;

The Department and Thompson having entered into a Consent Agreement whereby the Department and Thompson have agreed to settle this matter by the Department assessing a civil penalty of $10,000 against Thompson, by the Department's suspending the entire civil penalty for a period of five years subject to the conditions set forth below, by the Department's denying Thompson's export privileges for a five-year period and by Thompson's agreeing to cooperate fully with the Department regarding his knowledge of the transactions which gave rise to the proposed Charging Letter; and

The terms of the Consent Agreement having been approved by me;

It is therefore ordered,

First, a civil penalty in the amount of $10,000 is assessed against Thompson. The entire civil penalty shall be suspended for a period of five years from the date of entry of an appropriate Order, and shall thereafter be waived provided that, during the period of suspension, Thompson has committed no violation of the Consent Agreement, the Act or any regulation, order or license issued under the Act.

Second, Thompson shall, for a period of five years from the date of entry of an appropriate Order, be denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving the export of U.S.-origin commodities or technical data from the United Sates or abroad. Participation prohibited in any such transaction, either in the United States or abroad, shall include, but not be limited to, participation: (i) As a party or as a representative of a party to any export license application submitted to the Department; (ii) in preparing or filing with the Department any export license application of request for reexport authorization, or any document to be submitted therewith; (iii) in obtaining from the Department or using any validated or general export license or other export control document; (iv) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data, in whole or in part, exported or to be exported from the United States and subject to the Regulations; and (v) in financing, forwarding, transporting, or other servicing of such commodities or technical data. Such denial of export privileges shall extend only to those commodities and technical data which are subject to the Act and the Regulations.

Third, the proposed Charging Letter, the Consent Agreement and this Order shall be made available to the public.

This Order is effective immediately.

William V. Skidmore,

Acting Assistant Secretary for Export Enforcement.

Entered this 10th day of October 1989.

[FR Doc. 89–24625 Filed 10–18–89; 8:45 am]

BILLING CODE 3510–DT–M

[1] Effective October 1, 1988, the Export Administration Regulations were redesignated as 15 CFR parts 768–799 (53 FR 37751, September 28, 1988). The transfer merely changed the first number of each part from "3" to "7". Until such time as the Code of Federal Regulations is republished, the Regulations can be found at 15 CFR parts 368–399 (1988).

International Trade Administration

[A–427–802]

Initiation of Antidumping Duty Investigation; Polychloroprene From France

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce (the Department), we are initiating an antidumping duty investigation to determine whether imports of polychloroprene from France are being, or are likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether imports of polychloroprene from France materially injure, or threaten material injury to, a U.S. industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before November 6, 1989. If that determination is affirmative, we will make a preliminary determination on or before March 1, 1990.

EFFECTIVE DATE: October 19, 1989.

FOR FURTHER INFORMATION CONTACT: Karmi Leiman or Bradford Ward, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377–8498 or (202) 377–5288, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On September 22, 1989, we received a petition filed in proper form by E.I. Du Pont de Nemours & Company, Inc. In compliance with the filing requirements of § 353.12 of the Department's regulations published in the **Federal Register** on March 28, 1989 (54 FR 12772) (to be codified at 19 CFR 353.12), petitioner alleges that imports of polychloroprene from France are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, the U.S. industry.

On October 3, and October 4, 1989, we received submissions supplementing the petition.

Petitioner has stated that it has standing to file the petition because it is an interested party, as defined under section 771(9)(C) of the Act, and because it has filed the petition on behalf of the U.S. industry producing the product that is subject to this investigation. If any interested party, as described under paragraphs (C), (D), (E), (F), or (G) of section 771(9) of the Act, wishes to register support for, or opposition to, this petition, please file written notification with the officials cited in the **"FOR FURTHER INFORMATION CONTACT"** section of this notice.

Under the Department's regulations, any producer or reseller seeking exclusion from a potential antidumping duty order must submit its request for exclusion within 30 days of the date of the publication of this notice. The procedures and requirements regarding the filing of such requests are contained in § 353.14 of the Department's regulations.

United States Price and Foreign Market Value

Petitioner based United States price (USP) on price quotations to U.S. purchasers of polychloroprene by A. Schulman Inc. (Schulman). Schulman is a U.S. distributor of polychloroprene produced in France by Distugil S.A. Schulman's prices to U.S. purchasers were obtained by Du Pont salesmen. Petitioner adjusted these prices to account for commissions, U.S. warehousing, foreign inland freight, ocean freight and insurance, and U.S. freight.

Petitioner based foreign market value (FMV) on actual transaction price information collected by Du Pont's European subsidiary on sales of polychloroprene in France. Petitioner adjusted these prices to account for selling expenses, foreign inland freight, and warehousing and distribution.

Based on a comparison of FMV to USP, petitioner alleges dumping margins which range from 22.12 to 46.90 percent.

Initiation of Investigation

Under section 732(c) of the Act, the Department must determine, within 20 days after a petition is filed, whether the petition sets forth the allegations necessary for the initiation of an antidumping duty investigation, and whether the petition contains information reasonably available to the petitioner supporting the allegations.

We examined the petition on polychloroprene from France and found that the petition meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether imports of polychloroprene from France are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination by March 1, 1990.

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the U.S. tariff schedules were fully converted to the Harmonized Tariff Schedule (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered or withdrawn from warehouse for consumption on or after this date will be classified solely according to the appropriate HTS subheadings. The HTS subheadings are provided for convenience and U.S. Customs Service purposes. The written description remains dispositive as to the scope of this investigation.

The product covered by this investigation is polychloroprene. Polychloroprene (also known as neoprene), a polymer of chloroprene (2-chloro-1,3-butadiene), is a synthetic elastomer available in two different forms: dry polymers and aqueous latex grade polymers.

Polychloroprene is currently provided for under the following HTS subheadings: 4002.41.00.00 and 4002.49.00.00. Prior to January 1, 1989, polychloroprene was classifiable under items 446.1521 of the *Tariff Schedules of the United States Annotated.*

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action. We will notify the ITC and make available to it all nonprivileged and nonproprietary information. We will allow the ITC access to all privileged and business proprietary information in the Department's files, provided the ITC confirms in writing that it will not disclose such information either publicly or under administrative protective order without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

Preliminary Determination by ITC

The ITC will determine by November 6, 1989, whether there is a reasonable indication that imports of polychloroprene from France materially injure, or threaten material injury to, a U.S. industry. If its determination is negative, the investigation will be terminated; otherwise, the investigation will proceed according to the statutory and regulatory time limits.

This notice is published pursuant to section 732(c)(2) of the Act.

Dated: October 12, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89-24711 Filed 10-18-89; 8:45 am]
BILLING CODE 3510-DS-M

[A-428-804]

Initiation of Antidumping Duty Investigation; Polychloroprene From the Federal Republic of Germany

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce (the Department), we are initiating an antidumping duty investigation to determine whether imports of polychloroprene from the Federal Republic of Germany are being, or are likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether imports of polychloroprene from the Federal Republic of Germany materially injure, or threaten material injury to, a U.S. industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before November 6, 1989. If that determination is affirmative, we will make a preliminary determination on or before March 1, 1990.

EFFECTIVE DATE: October 19, 1989.

FOR FURTHER INFORMATION CONTACT: Karmi Leiman or Bradford Ward, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC. 20230; telephone (202) 377-8498 or (202) 377-5288, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On September 22, 1989, we received a petition filed in proper form by E.I. Du Pont de Nemours & Company, Inc. In compliance with the filing requirements of § 353.12 of the Department's regulations published in the Federal Register on March 28, 1989 (54 FR 12772) (to be codified at 19 C.F.R. 353.12), petitioner alleges that imports of polychloroprene from the Federal Republic of Germany are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, the U.S. industry.

On October 3, and October 4, 1989, we received submissions supplementing the petition.

Petitioner has stated that it has standing to file the petition because it is an interested party, as defined under section 771(9)(C) of the Act, and because it has filed the petition on behalf of the U.S. industry producing the product that is subject to this investigation. If any interested party, as described under paragraphs (C), (D), (E), (F), or (G) of section 771(9) of the Act, wishes to register support for, or opposition to, this

petition, please file written notification with the officials cited in the "FOR FURTHER INFORMATION CONTACT" section of this notice.

Under the Department's regulations, any producer or reseller seeking exclusion from a potential antidumping duty order must submit its request for exclusion within 30 days of the date of the publication of this notice. The procedures and requirements regarding the filing of such requests are contained in § 353.14 of the Department's regulations.

United States Price and Foreign Market Value

Petitioner based United States price (USP) on price quotations to U.S. purchasers of polychloroprene by Mobay Corporation (Mobay). Mobay, a subsidiary of Bayer A.G. (Bayer), is a U.S. distributor of polychloroprene produced in the Federal Republic of Germany by Bayer. Mobay's prices to U.S. purchasers were obtained by Du Pont salesmen. Petitioner adjusted these prices to account for U.S. selling expenses, U.S. warehousing, foreign inland freight, ocean freight and insurance, and U.S. freight.

Petitioner based foreign market value (FMV) on actual transaction price information collected by Du Pont's European subsidiary on sales of polychloroprene in the Federal Republic of Germany. Petitioner adjusted these prices to account for selling expenses, foreign inland freight, and warehousing and distribution.

Based on a comparison of FMV to USP, petitioner alleges dumping margins which range from 27.36 to 49.14 percent.

Initiation of Investigation

Under section 732(c) of the Act, the Department must determine, within 20 days after a petition is filed, whether the petition sets forth the allegations necessary for the initiation of an antidumping duty investigation, and whether the petition contains information reasonably available to the petitioner supporting the allegations.

We examined the petition on polychloroprene from the Federal Republic of Germany and found that the petition meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether imports of polychloroprene from the Federal Republic of Germany are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination by March 1, 1990.

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the U.S. tariff schedules were fully converted to the Harmonized Tariff Schedule (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered or withdrawn from warehouse for consumption on or after this date will be classified solely according to the appropriate HTS subheadings. The HTS subheadings are provided for convenience and U.S. Customs Service purposes. The written description remains dispositive as to the scope of this investigation.

The product covered by this investigation is polychloroprene. Polychloroprene (also known as neoprene), a polymer of chloroprene (2-chloro-1,3-butadiene), is a synthetic elastomer available in two different forms: dry polymers and aqueous latex grade polymers.

Polychloroprene is currently provided for under the following HTS subheadings: 4002.41.00.00 and 4002.49.00.00. Prior to January 1, 1989, polychloroprene was classifiable under items 446.1521 of the *Tariff Schedules of the United States Annotated.*

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action. We will notify the ITC and make available to it all nonprivileged and nonproprietary information. We will allow the ITC access to all privileged and business proprietary information in the Department's files, provided the ITC confirms in writing that it will not disclose such information either publicly or under administrative protective order without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

Preliminary Determination by ITC

The ITC will determine by November 6, 1989, whether there is a reasonable indication that imports of polychloroprene from the Federal Republic of Germany materially injure, or threaten material injury to, a U.S. industry. If its determination is negative, the investigation will be terminated; otherwise, the investigation will proceed according to the statutory and regulatory time limits.

This notice is published pursuant to section 732(c)(2) of the Act.

Dated: October 12, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89-24712 Filed 10-18-89; 8:45 am]

BILLING CODE 3510-DS-M

[A-582-802, A-580-806, A-583-808]

Initiation of Antidumping Duty Investigations: Sweaters Wholly or in Chief Weight of Man-Made Fiber From Hong Kong, the Republic of Korea, and Taiwan

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating antidumping duty investigations to determine whether imports or sweaters wholly or in chief weight of man-made fiber (hereinafter referred to as MMF sweaters) from Hong Kong, the Republic of Korea (Korea), and Taiwan are being, or are likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether imports of MMF sweaters from Hong Kong, Korea, and Taiwan materially injure, or threaten material injury to, a U.S. industry. If these investigations proceed normally, the ITC will make its preliminary determinations on or before November 6, 1989. If these determinations are affirmative, we will make preliminary determinations on or before March 1, 1990.

EFFECTIVE DATE: October 19, 1989.

FOR FURTHER INFORMATION CONTACT: James P. Maeder, John Gloninger, or Gary Taverman, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377-4924, 377-8330, or 377-0161, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On September 22, 1989, we received a petition filed in proper form by the National Knitwear and Sportswear Association on behalf of the domestic MMF sweaters industry. In compliance with the filing requirements of 19 CFR

353.12, petitioner alleges that imports of MMF sweaters from Hong Kong, Korea, and Taiwan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a U.S. industry.

Petitioner has alleged that it has standing to file the petition. Specifically, petitioner has alleged that it is an interested party as defined under section 771(9)(E) of the Act and that it has filed the petition on behalf of a U.S. industry producing the product that is subject to these investigations. If any interested party as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act wishes to register support for, or opposition to, this petition, please file written notification with the Assistant Secretary for Import Administration.

United States Price and Foreign Market Value

Petitioner's estimate of United States Price is based on two methodologies. Using the first methodology, petitioner calculates an average U.S. FAS price-per-dozen based on import volume and value statistics taken from the U.S. Department of Commerce Bureau of the Census (Report IM–145X) for "Sweaters Knitted or Crocheted, of Man-Made Fibers", HTS item numbers 6110.30.30.10 (men's) and 6110.30.30.20 (women's) for the period January, 1989 to June, 1989. Using the second methodology, petitioner calculates a U.S. price based on an average FOB export price-per-dozen and price-per-kilogram taken from the Statistical Department of the Taiwan Inspectorate General of Customs and the Hong Kong Census and Statistics Department for the time period January through April 1989, and from the Korean Office of Customs Administration for the period January through March, 1989.

Petitioner's estimate of foreign market value (FMV) is based on three methodologies: 1) four average wholesale prices, adjusted for discounts and allowances, resales, and taxes and duties (for Korea only); 2) average export prices based on monthly data taken from official government export statistics of Hong Kong, Korea, and Taiwan; and 3) four constructed value calculations derived from a cost analysis developed for four particular MMF sweaters in Hong Kong, Korea, and Taiwan.

Petitioner has developed three types of less-than-fair-value (LTFV) comparisons of sales of MMF sweaters, specifically: 1) comparisons between average U.S. import values and average home market prices (for Korea only); 2) comparisons between the average prices at which MMF sweaters were exported to the United States and the average prices at which they were exported to third countries; and 3) comparisons between average U.S. import values and constructed value calculations.

Of the three methodologies supplied by the petitioner, given the statutory preference for the use of home market price over constructed value, we have based the initiation of the investigations with regard to Korea on the LTFV comparisons between home market prices and average U.S. import prices. We have based the initiation of the investigations with regard to Hong Kong and Taiwan on the LTFV comparisons between constructed value and average U.S. import prices. We are not bashing any of the three initiations on the methodology using export statistics from the various countries because the statistical categories include products other than the subject merchandise and, therefore, are too broad to allow reasonable comparisons.

Based on the comparisons of United States Price and FMV that we determined to be reasonable, petitioner alleges the following dumping margins for each country: Hong Kong—33.07 to 115.15 percent; Korea—13.2 to 53.60 percent; and Taiwan—44.18 to 135.49 percent.

Initiation of Investigations

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation, and whether it contains information reasonably available to the petitioner supporting the allegations.

We examined the petition on MMF sweaters from Hong Kong, Korea, and Taiwan and found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating antidumping duty investigations to determine whether imports of MMF sweaters from Hong Kong, Korea, and Taiwan are being, or are likely to be, sold in the United States at less than fair value. If our investigations proceed normally, we will make preliminary determinations by March 1, 1990.

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the *Harmonized Tariff Schedule* (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s).

The products covered by these investigations include sweaters wholly or in chief weight of man-made fiber. For purposes of these investigations, sweaters of man-made fibers are defined as garments for outer wear that are knitted or crocheted, in a variety of forms including jacket, vest, cardigan with button or zipper front, or pullover, usually having ribbing around the neck, bottom and cuffs on the sleeves (if any), encompassing garments of various lengths but most typically ending at the waist, wholly or in chief weight of man-made fiber. The term "in chief weight of man-made fiber" includes sweaters where the man-made fiber material predominates by weight over each other single textile material. This excludes sweaters 23 percent or more by weight of wool. It includes men's, women's, boys' or girls' "sweaters", as defined above, but does not include sweaters for infants 24 months of age or younger. It includes all sweaters as defined above, regardless of the number of stitches per centimeter, provided that, with regard to sweaters having more than nine stitches per two linear centimeters horizontally, it includes only those with a knit-on rib at the bottom.

This merchandise is currently classifiable under HTS item numbers 6110.30.30.10, 6110.30.30.15, 6110.30.30.20, 6110.30.30.25, 6103.23.00.70, 6103.29.10.40, 6103.29.20.62, 6104.23.00.40, 6104.29.10.60, 6104.29.20.60, 6110.30.10.10, 6110.30.10.20, 6110.30.20.10, 6110.30.20.20, 6110.90.00.14 and 6110.90.00.30. This merchandise may also enter under HTS item numbers 6110.30.30.50 and 6110.30.30.55. These HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of these actions and to provide it with the information we used to arrive at these determinations. We will notify the ITC and make available to it all nonprivileged and nonproprietary information. We will allow the ITC access to all privileged and business proprietary information in our files, provided it confirms in writing that it will not disclose such information either publicly or under administrative protective order without the written consent of the Deputy Assistant

Secretary for Investigations, Import Administration.

Preliminary Determination by ITC

The ITC will determine by November 6, 1989, whether there is a reasonable indication that imports of MMF sweaters from Hong Kong, Korea, and Taiwan materially injure, or threaten material injury to, a U.S. industry. If its determination is negative, the investigations will be terminated; otherwise, they will proceed according to statutory and regulatory procedures.

This notice is published pursuant to section 732(c)(2) of the Act.

Dated: October 12, 1989

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89-24713 Filed 10-18-89; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

North Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The North Pacific Fishery Management Council's Groundfish Plan Teams for the Gulf of Alaska and the Bering Sea/Aleutian Islands Fishery Management Plans (FMPs) will meet on November 13–17, 1989, at the National Marine Fisheries Service, Northwest and Alaska Fisheries Center, 7600 Sand Point Way, NE., Room 2079, Seattle, WA. The Public meeting will begin on November 13 at 9 a.m., PST.

The meeting agenda will include: (1) Preparation of final Stock Assessment and Fishery Evaluation (SAFE) documents, and recommendations for final acceptable biological catch levels for the 1990 fisheries; (2) review of the North Pacific Council's draft environmental impact statement on sablefish management alternatives; (3) prioritization of research needs for groundfish stock assessments and fishery evaluations; (4) incorporation of marine mammal information into SAFE documents; (5) review and prioritization of groundfish FMP amendment proposals for the 1990 cycle; (6) approach for team preparation of FMP amendments on a definition for overfishing; and (7) review of revised amendment 19/14 on pollock roe stripping.

For more information contact Bill Wilson or Hal Weeks, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99501; telephone: (907) 271–2809.

Dated: October 13, 1989.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 89-24699 Filed 10-18-89; 8:45 am]

BILLING CODE 3510-22-M

South Atlantic Fishery Management Council Rescheduling of Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The public meeting of the South Atlantic Fishery Management Council's Scientific and Statistical Committee (SSC) on October 17–19, 1989, in Charleston, SC, previously published at 54 FR 41484, has been postponed due to conditions resulting from Hurricane Hugo.

The meeting has been rescheduled for November 14–16, 1989, at the same location at the Town and Country Inn, 2008 Savanah Highway, Charleston, SC. The meeting will begin at 1 p.m., on November 14 and will adjourn at noon on November 16.

The SSC will review the swordfish and the red drum assessments, the Bluefish Fishery Management Plan, Mackerel Amendment #5, and the SEAMAP Shallow Water Trawl Study. A detailed agenda will be available to the public upon request.

For more information contact Carrie R. F. Knight, Public Information Officer, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407, telephone: (803) 571–4366.

Dated: October 13, 1989.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 89-24700 Filed 10-18-89; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Application for Permit; West Coast Whale Research Foundation (P349A)

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531–1544), and the regulations governing fish and wildlife permit (50 CFR parts 217–222).

1. *Applicant:* Elizabeth A. Mathews and Daniel J. McSweeney, West Coast Whale Research Foundation, c/o Applied Sciences 273, UCSC, Santa Cruz, CA 95060.
2. *Type of Permit:* Scientific research under MMPA and scientific purposes under ESA.
3. *Name and Number of Marine Mammals:* Humpback whales (*Megaptera novaeangliae*), 1000.
4. *Type of Take:* The applicant proposes to take by harassment 600 humpback whales in Hawaii and 400 in Alaska during the course of collecting identification photographs from boats. Approach will not be closer than about 25 meters when attempting to obtain photographs. Singing whales will be recorded, but close approach (<100m) during this portion of the work is not required. Natural markings will be used to document local movements, migratory destinations, stock discreetness, reproductive histories, and social behavior. The applicants also plan to study the genetic relationships of humpback whales using DNA 'fingerprinting' from pieces of sloughed skin.
5. *Dates and Location of Activity:* Activities scheduled to begin January 1990 to December 1994. Actual dates are November to May in Hawaii and April to October in Alaska.

Concurrent with the publication of this notice in the Federal Register, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, 1335 East West Hwy., Room 7324, Silver Spring, Maryland 20910 within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices:

Office of Protected Resources and Habitat Programs, National Marine

Fisheries Service, 1335 East West Hwy., Suite 7324, Silver Spring, Maryland 20910;

Director, Alaska Region, National Marine Fisheries Service, 709 West 9th Street, Federal Bldg., Juneau, Alaska 99802;

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731-7415; and

Coordinator, Pacific Area Office, National Marine Fisheries Service, 2570 Dole Street, Room 106, Honolulu, Hawaii 96822-2396.

Dated: October 11, 1989.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.

[FR Doc. 89-24644 Filed 10-18-89; 8:45 am]

BILLING CODE 3510-22-M

Whale Watching Activities

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice of availability of report.

SUMMARY: In November, 1988, the National Marine Fisheries Service (NMFS) and the Center for Marine Conservation sponsored a workshop to review and evaluate whale watching programs and management needs. The recommendations included in the Proceedings of the Workshop focus on actions that can be taken by the whale watching industry, the research community, conservation groups and the Federal Government to protect marine mammals, especially whales, from potentially harmful activities associated with whale watching.

ADDRESS: Copies of the Proceedings of the Workshop to Review and Evaluate Whale Watching Programs and Management Needs are available from Dr. Nancy Foster, Director, Office of Protected Resources, National Marine Fisheries Service, Silver Spring, MD, 20910.

FOR FURTHER INFORMATION CONTACT: Margaret Lorenz, Headquarters, 301-427-2322; Douglas Beach, Northeast Region, 508-281-9254; James Lecky, Southwest Region, 213-514-6664, Eugene Nitta, Pacific Area Office, 808-955-8831; Charles Oravetz, Southeast Region, 813-893-3366; Brent Norberg, Northwest Region, 206-526-6110; and Steven Zimmerman, Alaska Region, 907-586-7233.

SUPPLEMENTARY INFORMATION:

Background

Whale watching has become an important economic, recreational, educational, and in some cases, scientific activity, for hundreds of thousands of U.S. citizens annually. For many, watching whales is the first introduction to the marine habitat. For some researchers, whale watching trips provide an opportunity for close study of whales. The growth of whale watching has spurred the economies of some vessel owners and many coastal towns. Major whale watching centers exist in the Northeast, the West Coast, Alaska and Hawaii. In addition to whale watching, charter boats in the Southeast and Gulf areas have devloped a market for cruises specifically aimed at feeding dolpins in the wild.

The precipitous growth of the whale watching industry, as well as an interest in observing or approaching other marine mammals in the wild, has been accompanied by concerns that approaching and observing marine mammals may cause biological problems for the marine mammals and legal problems for the observers.

Whales are especially vulnerable to injury and disturbance by boats. Many are slow-moving, can escape only by diving, and in some regions, such as Hawaii and Baja, California, are distributed in limited areas. Vessel traffic may subject whales to impacts ranging from displacement of cow/calf pairs from nearshore waters to increased energy expenditure when feeding is disrupted or migratory paths rerouted. Also, when humans feed marine mammals in the wild, the animal's normal feeding pattern may be disrupted significantly.

Seals and sea lions are vulnerable to disturbance most often while using haul-out sites. These disturbances are particularly significant during breeding and pupping seasons because important patterns in their life cycles are disrupted. Depending on the frequency and severity of disturbance at haul-out sites and rookeries, breeding success may be affected, mothers and pups can be separated, or they may abandon important breeding locations.

All marine mammals are protected from harassment, injury, killing, and capturing or attempts to do so by the Marine Mammal Protection Act and, if they are threatened or endangered, by the Endangered Species Act. However, Federal managers face the difficult task of determining whether and when harassment, the most frequent of these violations, has occurred. Over the years, a number of measures have been used, with varying success, to protect whales from whale watching activities that could adversely affect them. In spite of these attempts, which have included guidelines, interim regulations, and educational programs to make whale watching safer for the whales, the Federal government, scientists, conservation groups, and industry representatives continue to be concerned about the effects these activities are having on whales.

The workshop brought together, for the first time, knowledgeable representatives of the industry and of the conservation, management and scientific communities throughout the United States and Canada to review whale watching activities and available information on the effects of whale watching. The goal was to give direction to NMFS in carrying out its responsibilities to protect whales from potentially harmful activities associated with whale watching.

Final Recommendations of the Workshop

I. The whale watching industry should expand its collaboration with researchers by providing space for qualified scientists and naturalists and by providing funding for research.

II. The research community should direct its attention to studying short-term and long-term effects of whale watching on individual whales, whale populations, and whale habitats. Immediate research priorities should be species, locations or situations of particular significance.

III. The conservation community should evaluate, and improve or expand where necessary, education programs and materials on whale watching.

IV. Each NMFS region should issue regulations on whale watching.

a. The primary focus of new regulations should be minimum approach distances based on regional considerations.

b. Include in regulations restrictions on related activities, including thrill craft, swimming and diving with whales.

c. The regulations should address behavior, such as how to operate a vessel if a whale approaches the vessel, as well as distances.

d. The regulations should provide special restrictions, as warranted, for particular areas, such as feeding or calving grounds, or special situations such as whale watching on mating pairs or cow/calf pairs.

e. The regulations should include a prohibition on whale watching activities that involve the feeding of wild populations of cetaceans.

V. The current permit review in the Office of Protected Resources, NMFS, should examine the use of scientific permits for commercial whale watching, including photography.

NMFS recognizes that commercial whale watching vessels provide an important platform for conducting research on whales. Not all research activities on whales require a permit from the Service. NMFS should investigate whether scientific research that requires a permit is being conducted concurrently with commercial whale watching trips and whether the privileges of a permit (which usually allow a closer approach to whales than whale watching guidelines or regulations) are being abused to benefit the permit holder monetarily. NMFS should clarify under what circumstances it is acceptable to combine research with commercial activities.

VI. By January 1, 1990, each NMFS Region shall have met with affected constituencies and drafted proposed regulations on whale watching for that Region.

There is still much disagreement about the extent to which whale watching is an activity harmful to the whales themselves. Although other, and perhaps greater, threats to whales and their habitats have been identified, most participants in the workshop believed that better protection of whales could be achieved relatively easily if whale watching were better regulated. Workshop participants emphasized that regulations should be simple to understand, follow and enforce. The participants agreed that minimum approach distances were required. However, because of the variability from region to region in such factors as species of whale, numbers and types of vessels, or importance of the area for feeding or breeding, participants stressed the need for components of the regulations to be sufficiently flexibile to address regionally specific factors. A major concern was the difficulty of ensuring compliance by private boaters. Workshop participants concurred that new regulations need to be combined with a vigorous public education effort.

Under the Marine Mammal Protection Act and the Endangered Species Act, harassment, harm, or injury is illegal regardless of how far away an activity occurs unless an exemption has been granted by NMFS under provisions for scientific research, public display or incidental but unintentional takings during commercial fishing or other specific activities. No exemptions have been made for the harassment, harm, or injury to endangered species except for scientific research and incidentally to specific activities under section 101(a)(5) of the MMPA (whale watching and associated activities are not an incidental take).

Current NMFS guidelines and Regulations

All NMFS Regions, except Alaska, have issued guidelines for approaching certain marine mammals, and these will continue to be in effect until the public is notified of any changes. In Hawaii, the interim regulations for approaching humpback whales (52 FR 44912, November 23, 1987) continue to be in effect. For details of each Region's current guidelines, see **FOR FURTHER INFORMATION CONTACT.**

Dated: October 11, 1989.

Nancy Foster,

Director, Office of Protected Resources.

[FR Doc. 89-24682 Filed 10-18-89; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Wool Textile; Products Produced or Manufactured in the People's Republic of China

October 13, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: October 13, 1989.

FOR FURTHER INFORMATION CONTACT: Jerome Turtola, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566-6828. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limit for Categories 445/446 is being increased for swing and carryforward. The limit for Category 336 is being reduced to account for the swing being applied.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 53 FR 44937, published on November 7, 1988). Also see 53 FR 50276, published on December 14, 1988.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provision.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

October 13, 1989.

Commissioner of Customs
Department of the Treasury
Washington, DC 20229

Dear Mr. Commissioner:

This directive amends, but does not cancel, the directive of December 6, 1988 issued to you by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports into the United States of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in the People's Republic of China and exported during the twelve-month period which began on January 1, 1989 and extends through December 31, 1989.

Effective on October 13, 1989, the directive of December 6, 1988 is amended further to adjust the limits for the following categories, as provided under the terms of the current bilateral textile agreement between the Governments of the United States and the People's Republic of China:

Category Levels in Group I	Adjusted Twelve-Month Limit [1]
445/446	281,016 dozen
336	132,117 dozen

[1] The limits have not been adjusted to account for any imports exported after December 31, 1988.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89-24673 Filed 10-18-89; 8:45 am]

BILLING CODE 3510-DR-M

Announcement of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in the Polish People's Republic; Correction

October 16, 1989.

In the letter to the Commissioner of Customs published in the Federal Register on December 8, 1988 (53 FR 49584), correct Footnote 1 as follows:

[1] In Category 334pt. all HTS numbers except 6101.20.0010, 6101.20.0020 and 6112.11.0010.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89-24672 Filed 10-18-89; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Low Observable Technology; Meetings

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board Task Force on Low Observable Technology will meet in closed session on January 17, 1990 at the Pentagon, Arlington, Virginia.

The Mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will evaluate low observable technology.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law No. 92-463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. 552b(c) (1) (1982), and that accordingly this meeting will be closed to the public.

Dated: October 13, 1989.

Linda M. Bynum,

Alternative OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89-24643 Filed 10-18-89; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Special Study Panel on Education Indicators; Meeting

AGENCY: Special Study Panel on Education Indicators.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and agenda of a forthcoming meeting of the Special Study Panel on Education Indicators. This notice also describes the functions of the Study Panel. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act.

DATE: November 16, 1989, 9:00 a.m. to 5:30 p.m. and November 17, 1989, 9:00 a.m. to 4:00 p.m.

ADDRESS: Ramada Renaissance Hotel, Potomac Room, 1143 New Hampshire Avenue NW., Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: John Ralph, National Center for Education Statistics, 555 New Jersey Avenue NW., Washington, DC 20208-5650, (202) 357-6677.

SUPPLEMENTARY INFORMATION: The Special Study Panel on Education Indicators is established under section 406(g)(3) of the General Education Provisions Act (20 U.S.C. 1221e-1). The Study Panel is established to make recommendations concerning the determination of education indicators. The Panel advises the Commissioner of the National Center for Education Statistics on the development of indicators on the current state of the American educational system.

The meeting of the Study Panel is open to the public. The agenda includes the following items: November 16—introduction of Chairman and new members and meeting agenda, discussion of the Panel's purposes and expected product, review of indicator work in related fields, review of indicator development in education; November 17—panel discussion of alternative workplans for the Panel and recommendations for proceeding.

Records are kept of all Study Panel proceedings and are available for public inspection from 9:00 to 5:00 at the office of the Study Panel at the National Center for Education Statistics, 555 New Jersey Avenue NW., Room 400, Washington, DC 20208.

Bruno V. Manno,

Acting Assistant Secretary for Educational Research and Improvement.

[FR Doc. 89-24615 Filed 10-18-89; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Financial Assistance Award; Energy Task Force Management Corporation

AGENCY: U.S. Department of Energy (DOE), Richland Operations Office.

ACTION: Notice of intent to make a noncompetitive financial assistance award.

SUMMARY: The DOE Richland Operations Office, in accordance with 10 CFR 600.7(b)(2), gives notice of its plan to solicit for award a noncompetitive cooperative agreement to the Energy Task Force Management Corporation for support of workshops and technical assistance on a technology transfer program.

Scope: Under an existing cooperative agreement, the Energy Task Force Management Corporation has been providing assistance to the DOE and the Energy Task Force for the Urban Consortium in assessing and resolving issues related to transportation of hazardous and nuclear materials through large urban areas. The purpose of the current cooperative agreement to is obtain local officials' participation and expertise in transportation activities including collection and dissemination of information, conducting regional and national workshops, providing technical assistance, and identification and analyses of issues related to transportation of hazardous materials through large urban areas. The proposed award will continue with this effort. The duration of the project is expected to cover five (5) years, with funding supplied on an annual basis. The estimated cost of this project for the first year is expected to be approximately $200,000. The DOE may continue funding of the cooperative agreement for the remaining four (4) years, pending availability of funding and/or need.

The DOE has determined that the award on a noncompetitive basis is appropriate because the applicant is already conducting this activity; is the only known organization that has an existing network with the local officials targeted by this program; is experienced in prior technology transfer activities for energy issues; has the relationship and credibility with local officials on energy-related projects; and has the constituent members experience related to transportation issues. DOE knows of no other entity which is conducting or planning to conduct this activity.

FOR FURTHER INFORMATION CONTACT: Julie A. Riel, U.S. Department of Energy, Richland Operations Office, Procurement Division, A7-80, P.O. Box 550, Richland, WA 99352, Telephone: (509) 376-9790.

Dated: October 12, 1989.

Robert D. Larson,

Director, Procurement Division Richland Operations Office.

[FR Doc. 89-24705 Filed 10-18-89; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP89-471-000]

Gateway Pipeline Co.; Intent To Prepare an Environmental Assessment for the Gateway Pipeline Project and Request for Comments on Environmental Issues

October 12, 1989.

Summary

Notice is hereby given that the staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) on the facilities proposed in the above-referenced docket for the *Gateway Pipeline Project.*

Gateway Pipeline Company (Gateway), a subsidiary of United Gas Pipe Line Company (United), is seeking a certificate of public convenience and necessity under section 7(c) of the Natural Gas Act and 18 CFR part 157, subpart E (Optional Certificate) to construct, own, and operate approximately 25.75 miles of 20- and 30-inch-diameter pipeline and appurtenant facilities. The proposed pipeline would extend from the tailgate of one existing and two proposed gas treatment plants in Mobile County, Alabama, to United's existing Lirette-Mobile pipeline near the Mississippi-Alabama border, also in Mobile County. In addition, Gateway requests, pursuant to § 157.103(f)(1) of the Commission's Rules of Practice and Procedure, pregranted authority to abandon any facilities or services authorized under this certificate application that Gateway determines are no longer needed upon the termination of its contractual obligations underlying the service.

The purpose of the Gateway Pipeline Project is to transport natural gas produced in the Mobile Bay Area from gas treatment plants to United's interstate pipeline system, and to provide open-access transportation service for all potential shippers of Mobile Bay Area gas. The estimated cost of the Gateway Pipeline Project is $20,413,000.

By this notice, the FERC staff is requesting comments on the scope of the analysis that should be conducted for the EA. All comments will be reviewed prior to publication of the EA and significant issues will be addressed. Comments should focus on potential environmental effects, alternatives to the proposal (including alternate routes), and measures to mitigate adverse environmental impact. Written comments must be submitted by November 20, 1989 in accordance with the instructions provided at the end of this notice.

Proposed Action

On December 22, 1988, Gateway filed an application with the FERC in Docket No. CP89-471-000 to construct, own and operate approximately 25.75 miles of pipeline and appurtenant facilities. No compression, storage, or process facilities are included in this project. The pipeline would connect the Mobil Oil Exploration and Producing Southeast, Inc. (MOEPSI) gas treatment plant in Mobile County, Alabama, the proposed gas treatment plants of Exxon Corporation and Jubilee Pipeline Company, and any other appropriate future gas treatment plants, with United's Lirette-Mobile pipeline at a point just east of the Mississippi border in Mobile County, Alabama.

Proposed Facilities

The general location of the proposed Gateway pipeline is shown in figure 1.[1] The proposed facilities include approximately 24.5 miles of 30-inch-diameter pipeline; a 1.0-mile-long 30-inch-diameter lateral; a 0.25-mile-long 20-inch-diameter lateral; associated appurtenances (check valves, blow off stacks, mainline valves, pressure differential detectors); gas metering facilities; and roads into the gas metering facilities. The proposed pipeline would extend from Section 34, T7S, R2W, Mobile County, Alabama at the MOEPSI gas treatment plant to Section 4, T5S, R4W, Mobile County, Alabama, where it would connect with United's existing Lirette-Mobile 30-inch-diameter pipeline. The proposed pipeline would also connect to the proposed Exxon plant located in Section 16, T7S, R2W, Mobile County, and other proposed plants which might be located in the vicinity. The exact connection points to these plants are not shown on figure 1 as their exact locations are presently unknown. Applications to construct these interconnections would be required in the future. The metering facilities would be located at the tailgates of the existing and proposed gas treatment plants and at the interconnection with United's Lirette-Mobile pipeline. The design capacity of the proposed pipeline is 600,000 Mcf (thousand cubic feet) of gas per day.

Construction-zone requirements include a 70-foot-wide construction right-of-way and 125-foot-square staging areas on each side of stream, highway, pipeline, and railroad crossings. Approximately 218.48 acres would be temporarily disturbed by construction along the 25.75 miles of proposed pipeline.

The permanent right-of-way would be reduced from the 70-foot-width needed for construction to 50 feet. Approximately 156.1 acres would be maintained as a permanent right-of-way. In addition, a total of approximately 4.0 acres would be needed for the four gas metering facilities, and approximately 0.7 acre of permanent 20-foot-wide road would be required for each of the four metering facilities.

Construction Procedures

Gateway states that the proposed facilities would be constructed and operated in accordance with all applicable regulations. These include: 49 CFR part 192—Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards; 18 CFR Part 2.69—Guidelines to be Followed by Natural Gas Pipeline Companies in the Planning, Clearing, and Maintenance of Rights-of-Way; and other applicable Federal, state, and local regulations and permit requirements.

If authorized, construction is expected to require 3.5 to 4.5 months to complete. Gateway expects these facilities to be in service by July 1991.

A workforce of approximately 200 to 300 persons would be required, depending on scheduling, weather conditions and unforeseen problems.

Gateway would acquire right-of-way easements for the proposed pipeline, but has no plans to acquire any lands in fee for the project. All lands involved in the proposed project would remain in private ownership, and Gateway would compensate the landowners for properties used by the proposed project.

Approximately 83.5 acres of timbered land would be cleared during construction. Trees removed from the right-of-way would be disposed of in accordance with Federal, state and local regulations. It is anticipated that all merchantable timber would be harvested. Brush and other timber would be piled and burned or removed in conformance with applicable regulations.

[1] Figure 1 is not being printed in the **Federal Register**, but copies are available from the Commission's Public Reference Branch at (202) 357-8118. A copy of figure 1 is attached to each mailed copy of the notice.

Conventional methods would be used for the pipeline construction. A 70-foot-wide construction right-of-way would be surveyed, cleared and graded as necessary to move construction equipment in and out. The pipeline trench would then be excavated to a depth of approximately 66 inches to allow for a minimum of 3 feet of cover after construction. The bottom width of the trench would be sufficient to allow for the emplacement of the pipeline and its appurtenances, including concrete weights or coatings if necessary to hold the pipeline in place. The top width of the trench would vary with soil conditions and slope stability. Materials removed during the trenching operation would be temporarily placed next to the trench until the pipeline was installed.

There are no plans to use containment structures around the stockpiled excavated materials due to the temporary nature of the stockpiles. During backfill operations, the preconstruction contours and elevations would be restored along the pipeline route. Slopes would be stabilized by one or more of the following methods: seeding, sodding, terracing, riprapping or bulkheading.

The pipeline trench would be excavated by a crawler-mounted wheel-type trenching machine, back-hoe or similar equipment. All highway and surfaced road crossings would be dry bored in accordance with applicable regulations. Unsurfaced roads may be trenched after appropriate notice to users and in accordance with existing regulations.

As proposed, stream crossings would generally be accomplished through open trench excavation with equipment operating from the banks. Typically, draglines would be used to excavate the bank cuts and the trench across the stream.

Wetland crossings are proposed to be accomplished using marsh excavating equipment or land excavating equipment. The pipeline would be welded, coated, and inspected, floatation devices would be installed as required, and the pipe "pushed" across the wetland area. Weights would be attached to the pipe as needed to prevent any floatation after installation.

Cultivated farmland crossings would be accomplished by conventional construction methods, except that double ditching would be used unless prohibited by the landowner. In the double ditching method, topsoils and subsoils are stockpiled separately, and after the pipeline is in place, the subsoils are backfilled first, followed by the topsoil. The right-of-way would be restored to its original contour as much as practicable and revegetated in accordance with an erosion control and revegetation plan that will be reviewed by the FERC staff.

As a part of the construction procedures and as required by the U.S. Department of Transportation, the pipeline would be hydrostatically tested. Approximately 4,754,981 gallons of water would be required for the tests. Withdrawal rates, if local sources are used, would be 2,000 to 4,000 gallons per minute. After testing, the water would either be returned to its original source at approximately the same rate at which it was withdrawn, or discharged at an equivalent rate to follow natural contours, or trucked off site. Neither an oxygen scavenger nor a biocide would be used, so test water would not be treated prior to discharge, except to filter mill rust if necessary.

Environmental Issues

Based on preliminary analyses of the application for new facilities and the environmental information provided by the applicant, the FERC staff has identified a number of issues which will be addressed in the EA. These issues include:

Topography and Soils
- —Erosion control.
- —Impact on crop production and farmland.

Geology and Hydrology
- —Impact on streams.
- —Impact on existing water flow patterns.
- —Impact on water table.
- —Effects of construction on potable water supplies.
- —Effects of construction on water quality.

Wetlands and Vegetation
- —Effects of construction on wetlands.
- —Revegetation and right-of-way management.
- —Loss of endangered plant species.

Fish and Wildlife
- —Impact on fisheries.
- —Impact on threatened and endangered species.

Land Use, Socioeconomics, and Aesthetics
- —Impact on homes.
- —Impact on recreation, public lands, natural areas.
- —Appearance of right-of-way.
- —Conflicts with existing or potential land uses.

Cultural Resources
- —Effect on properties listed on or eligible for inclusion on the National Register of Historic Places.

Comments are solicited on any additional topics of environmental concern to residents and others in the project area. After comments in response to this notice are received and analyzed and the various issues investigated, the staff will publish an EA for the Gateway Pipeline Project.

Description of Alternative Routes

The FERC staff has currently identified two possible alternate routes to the proposed Gateway Pipeline Project. One route would utilize an existing electrical transmission line right-of-way east of the proposed route, extending from the vicinity of the MOEPSI gas treatment plant northward to the intersection with United's existing Lirette-Mobile pipeline approximately 6 miles east of the proposed interconnection. The other route would utilize Transcontinental Gas Pipe Line Corporation's (Transco) existing 30-inch-diameter pipeline right-of-way generally west of the proposed route, extending from the vicinity of the MOEPSI gas treatment plant northwest to the intersection with United's existing Lirette-Mobile pipeline approximately 2 miles east of the proposed interconnection.

The general location of the alternate routes mentioned above is shown in figure 1.

Comment Procedure

A copy of this notice and request for comments on environmental issues has been sent to Federal, state, and local environmental agencies, parties in this proceeding, public interest groups, libraries, newspapers and other interested individuals. The governments of Mobile Country and all towns which are traversed by the proposed pipeline will be provided copies of detailed maps which identify the location of the proposed project.

Comments on the scope of the EA should be filed as soon as possible but no later than November 20, 1989. All written comments must reference Docket No. CP89-471-000 and be addressed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426. A copy of the comments should also be sent to Mr. Phil Veres, Project Manager, Federal Energy Regulatory Commission, Room 7312, 825 North Capitol Street, N.E., Washington, DC 20426. Comments recommending that the FERC staff address specific environmental issues should be supported with a detailed explanation of the need to consider such issues.

The EA will be based on the FERC staff's independent analysis of the proposal and, together with the comments received, will comprise part

of the record to be considered by the Commission in this proceeding. The EA will be sent to all parties in this proceeding, to those providing comments in response to this notice, to Federal and state agencies, and to interested members of the public. The EA may be offered as evidentiary material if an evidentiary hearing is held in this proceeding. In the event that an evidentiary hearing is held, anyone not previously a part to this proceeding and wishing to present evidence on environmental or other matters must first file with the Commission a motion to intervene, pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214).

Additional information about the proposal, including detailed route maps for specific locations, is available from Mr. Phil Veres, Project Manager, telephone (202) 357–8073.

Lois D. Cashell,

Secretary.

[FR Doc. 89–24629 Filed 10–18–89; 8:45 am]

BILLING CODE 6717–01–M

Intent To Prepare a Draft Environmental Impact Statement for the Proposed Niagara Import Point Project and Request for Comments on its Scope

October 13, 1989.

In the matter of Tennessee Gas Pipeline Company, Docket Nos. CP88–171–001, Great Lakes Gas Transmission Company, CP89–892–000, Transcontinental Gas Pipe Line Corporation, CP89–7–001 and CP89–710–000, National Fuel Gas Supply Corporation and Penn-York Energy Corporation, CP88–194–001, PennEast Gas Services Company, CNG Transmission Corporation and Texas Eastern Transmission Corporation, CP88–195–002, Algonquin Gas Transmission Company, CP88–187–001, CNG Transmission Corporation, CP89–712–000, Texas Eastern Transmission Corporation, CP89–711–000.

Notice of Intent

Notice is hereby given that the staff of the Federal Energy Regulatory Commission (FERC or Commission) has determined that approval of the *Niagara Import Point (NIP) Project* proposed by the above applicants would constitute a major Federal action significantly affecting the quality of the human environment. Therefore, pursuant to the Commission's Rules of Practice and Procedure, 18 CFR 380.6(a)(3), an environmental impact statement (EIS) will be prepared.

The FERC will be the lead Federal agency and will produce an EIS satisfying the requirements of the National Environmental Policy Act.

Request for Comments

Written comments are requested to help identify significant issues or concerns related to the NIP Project to determine the scope of issues, including alternatives that need to be analyzed, and to identify and eliminate from detailed study the issues which are not significant. All comments on specific environmental issues should contain supporting documentation and rationale. Written comments must be filed on or before November 20, 1989.

Written comments should reference Docket No. CP88–171–001 and should be addressed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. A copy of the comments should also be sent to Mr. Kurt W. Flynn, Project Manager, Environmental Policy and Project Analysis Branch, Office of Pipeline and Producer Regulation, 825 North Capitol Street, NE., Washington, DC 20426.

Comments are also requested on the specific environmental issues which exist at any of the sites where NIP Project-related nonjurisdictional facilities would be constructed (see table 1). If no issues are raised and the nonjurisdictional facilities have been approved or are being reviewed at the state or local level, or if there are no direct tie-ins to the interstate pipeline network, the Commission staff intends to limit its environmental review. In this case, the review would primarily address the potential indirect effects on endangered species and cultural resources.

Background

The FERC's Northeast proceedings produced four separate settlement projects. The NIP Project was formed as a direct result of the Niagara Settlement Process (NSP).

As a result of the NSP the following companies filed applications with the FERC pursuant to section 7 of the Natural Gas Act: Tennessee Gas Pipeline Company (Tennessee), Transcontinental Gas Pipe Line Company (Transco), National Fuel Gas Supply Corporation (National Fuel), Penn-York Energy Corporation (Penn-York), PennEast Gas Services Company (PennEast), CNG Transmission Corporation (CNG), Texas Eastern Transmission Corporation (Texas Eastern), and Algonquin Gas Transmission Corporation (Algonquin). Tennessee also filed an application with the Commission for a Presidential permit pursuant to section 3 of the Natural Gas Act for authorization to construct and operate facilities at the international border between the United States and Canada.

Great Lakes Gas Transmission Company (Great Lakes) filed a related application with the FERC, pursuant to section 7 of the Natural Gas Act. In its application, Great Lakes seeks authorization to expand its facilities to provide additional firm transportation service for TransCanada Pipeline Limited (TransCanada). Upon delivery from Great Lakes, TransCanada would transport the gas to its existing interconnection with Tennessee at the Niagara Import Point located at the United States/Canadian border in Niagara County, New York.

The purpose of the NSP applications is to transport for various customers a cumulative total of up to 587,118 thousand cubic feet a day (Mcfd) of natural gas. The gas would be transported from the Niagara Import Point and delivered to local distribution companies, cogeneration plants, storage facilities, and a power plant in the Northeastern United States.

The Commission has determined that some of the facilities included under the NSP can be phased as independent projects based on the existing capacity of TransCanada and the firm commitments of downstream users. For example, the Commission approved the SS–2 Storage Service (SS–2) Project as an independent phase of the NSP applications. It also appears that the TEMCO/Niagara (TEMCO) Project phase of the NSP applications may also be independent of the remaining NIP Project. As further discussed below, the TEMCO Project phase is being addressed in a separate environmental document.

Overall Facilities

The Great Lakes and the NSP facilities consist of approximately 633.63 miles of 12–, 24–, 30–, 36– and 42–inch–diameter pipeline loop; 5.86 miles of 20– and 24–inch–diameter replacement pipeline; 45.85 miles of new 20–, 24– and 30–inch–diameter pipeline; the addition of 43,000–horsepower (hp) of compression at existing compressor stations; and 20,600 hp of new compression at two proposed compressor stations.[1]

NIP Project

The NIP Project, which includes the Great Lakes facilities, would consist of approximately 535.7 miles of 12–, 24–,

[1] A pipeline loop is a segment of pipeline which is usually adjacent to an existing pipeline and connected to it at both ends. The loop allows more gas to flow through the pipeline without additional compression.

30–, and 36–inch–diameter pipeline loop; 5.58 miles of 20–inch–diameter replacement pipeline; 4.85 miles of new 24– and 30–inch–diameter pipeline; the addition of 28,000 hp of compression at existing compressor stations; and 20,600 hp of new compression at two proposed compressor stations. Table 2 lists the locations of the proposed facilities by county and state. The appendix to this Notice provides a more detailed discussion of the proposed actions by each applicant in the NIP Project. The appendix also includes figures which show the general location of the facilities proposed.[2]

SS–2 Project Phase

The SS–2 Project phase consists of the construction and operation of facilities in order to provide storage service to eight electric generators or local distribution companies. Facilities for the SS–2 Project include 67 miles of 20–, 24–, 30–, 36–, and 42–inch–diameter pipeline facilities as well as metering facilities at the existing Leidy Compressor Station. An environmental assessment (EA) for these facilities was completed by the Commission staff in July 1989. On July 27, 1989, the Commission issued an *Order Issuing Certificates and Approving Abandonment* for the SS–2 Project.

TEMCO Project Phase

The TEMCO Project phase would consist of approximately 72.5 miles of 18–, 24–, 30–, and 36–inch–diameter gas transmission pipeline loops; 0.28 mile of 24–inch–diameter replacement pipeline; 15,100 hp of additional compression at 4 existing compressor stations; and the addition and modification of measurement facilities.

A part of the TEMCO Project includes 31.4 miles of 30–inch–diameter pipeline loop on the existing Niagara Spur line. The entire Niagara Spur loop would be jointly owned by Tennessee, National Fuel, and PennEast.

The purpose of the TEMCO Project would be to provide transportation services on behalf of Transco Energy Marketing Company, Altresco Pittsfield Ltd (Altresco), and four Tennessee mainline customers (Altresco, ANR Venture Springfield, Flagg Energy and Capitol District). In addition, Tennessee has indicated that the construction of the Niagara Spur loop would eliminate the need for 2,200 hp of compression previously approved by the Commission.

[2] The appendix is not being printed in the Federal Register. However, copies are being mailed to everyone on the Commission's service and mailing lists. Copies are also available from the Commission's Public Reference Branch at (202) 357–8118.

For these reasons, the Commission staff will review the TEMCO Project in a separate EA which is currently under preparation.

The SS–2 and TEMCO Projects are not dependent upon the facilities proposed by Great Lakes.

Outline of Current Environmental Issues

The EIS will address the environmental concerns that have been and will be identified by the FERC staff, interveners, other Federal and state agencies, and individuals who respond to notices on this project. The issues include but are not limited to:

Land Use
- —Impact on homes, future development, and public recreation areas.
- —Impact on nature preserves, parks, public lands, Indian reservations, etc.

Aesthetics—Effect of appearance of rights-of-way and aboveground facilities on neighborhoods and scenic areas.

Pipeline Safety—Possibility of pipeline rupture.

Cultural Resources—Effect of the project on properties listed on or eligible for the National Register of Historic Places.

Water Resources
- —Effect of construction on potable water supplies.
- —Excavation of stream sediments contaminated by toxic substances.
- —Wetland impacts.

Wildlife/Fisheries
- —Impact on wildlife/fisheries.
- —Impact on threatened and endangered species.

Vegetation—Short- and long-term effects on vegetation from clearing, seeding, and right-of-way management.

Soils & Geology
- —Erosion control and revegetation.
- —Effect on crop production and farmland.
- —Effects of blasting and geologic hazards.
- —Impact on exploitable mineral resources.

Air and Noise—Impact of additional compression on air quality and noise levels.

PCB's—Removal and disposal of facilities contaminated by PCB's.

Alternatives—Pipeline route variations and alternative system designs.

Alternative sites, route modifications, and specific mitigating measures will also be considered in the EIS. After comments from this notice are received and analyzed and the various issues are investigated, the staff will publish a draft EIS (DEIS) entitled "The Niagara Import Point Project."

Cooperating Agencies

The following Federal agencies are requested to indicate whether they wish to be cooperating agencies in the preparation of the EIS:

Advisory Council on Historic Preservation
Department of Agriculture:
- Soil Conservation Service
- U.S. Forest Service

Department of Commerce: National Oceanic and Atmospheric Administration
Department of Defense: U.S. Army Corps of Engineers
Department of Energy: Office of Fossil Fuels
Department of the Interior:
- U.S. Fish and Wildlife Service
- U.S. Geological Survey
- National Park Service
- Bureau of Indian Affairs

Department of State
Department of Transportation:
- Federal Highway Administration
- Office of Pipeline Safety
- U.S. Coast Guard

Environmental Protection Agency

These or any other agencies desiring cooperating agency status should send a request describing how they would like to be involved to: Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426.

The request should reference Docket No. CP88–171–001 and should be received by November 20, 1989. Additional information, including detailed maps of limited areas of the proposed routes, may be obtained by contacting Mr. Kurt W. Flynn, Project Manager, at (202) 357–8870 or (FTS) 357–8870.

Cooperating agencies are encouraged to participate in the scoping process and to provide information to the lead agency. Cooperating agencies are also welcome to suggest format and content modifications to facilitate ultimate adoption of the EIS.

Notice and DEIS Distribution

A copy of this notice has been distributed to Federal, state, and local agencies, public interest groups, libraries, newspapers, parties in this proceeding, and other interested individuals. Detailed maps of the proposed route have been provided to administrative officials of each affected county and municipality identified in table 2.

The DEIS will be mailed to Federal, state, and local agencies, public interest groups, interested individuals, newspapers, libraries, and parties in this proceeding. A 45-day comment period

will be allotted for review and comment on the DEIS.

Any person may file a motion to intervene on the basis of the Commission staff's DEIS [18 CFR 380.10(a) and 385.214]. After these comments are reviewed, any significant new issues are investigated, and modifications are made to the DEIS, a final EIS (FEIS) will then be published by the Commission staff and distributed. The FEIS will contain the staff's reponses to comments received on the DEIS.

Additional information about the proposal may be obtained by contacting Mr. Kurt Flynn, Project Manager, Environmental Policy and Project Analysis Branch, Office of Pipeline and Producer Regulation, Room 7312, 825 North Capitol Street NE., Washington, DC 20426, telephone (202) 357–8870 or (FTS) 357–8870.

Lois D. Cashell,

Secretary.

TABLE 1.—NIP PROJECT SUMMARY OF MAJOR NEW NONJURISDICTIONAL FACILITIES

Facility shipper [1]	Location
Ocean State Power II	Burrillville, RI.
Indeck/Oswego	Oswego, NY.

TABLE 1.—NIP PROJECT SUMMARY OF MAJOR NEW NONJURISDICTIONAL FACILITIES—Continued

Facility shipper [1]	Location
Indeck/Yerkes	Tonawanda, NY.
Northeast Energy	Bellingham, MA.
Long Island Cogen (Telius)	Oyster Bay, NY.
Cogen Energy Tech	Brookview, NY.
G.A.S. Orange Development	Syracuse, NY.
IEC/Northeast Energy	Bellingham, MA.
IEC/North Jersey	Sayerville, NJ.
Continental Energy	Hazeltown, PA.

[1] All of the above nonjurisdictional facilities, with the exception of the OSP power plant, are cogeneration plants.

TABLE 2

NIP PROJECT PIPELINE FACILITIES

Proposed facilities	Pipe diameter (inches)	Approximate Length (miles) [1]	State	County
Tennessee				
(Docket No. CP88–171–001)				
Segment 1	30" loop	17.3	NY	Niagara, Erie.
Segment 2	30" loop	0.5	NY	Niagara.
Segment 3	30" loop	3.2	NY	Wyoming.
Segment 4	30" loop	12.5	NY	Livingston, Ontario.
Segment 8	30" loop	5.4	MA	Hampden.
Segment 9	30" loop	3.2	MA	Middlesex.
		42.1		
Great Lakes				
(Docket No. CP89–892–000)				
Loop 1	36" loop	5.6	MN	Marshall.
Loop 2	36" loop	12.2	MN	Marshall.
Loop 3	36" loop	21.3	MN	Clearwater.
Loop 4	36" loop	19.0	MN	Cass, Itasca.
Loop 5	36" loop	3.9	MN	Itasca.
Loop 6	36" loop	14.8	MN	Itasca.
Loop 7	36" loop	27.0	WI	Douglas, Bayfield.
Loop 8	36" loop	36.6	WI/MI	Iron/Gogebic.
Loop 9	36" loop	41.3	MI	Gogebic, Iron.
Loop 10	36" loop	36.0	MI	Dickinson, Marquette, Delta.
Loop 11	36" loop	45.6	MI	Delta, Schoolcraft, Mackinac.
Loop 12	36" loop	30.8	MI	Mackinac.
Loop 13	36" loop	31.9	MI	Emmet.
Loop 14	36" loop	16.2	MI	Ostego, Crawford.
Loop 15	36" loop	39.2	MI	Missaukee, Clare.
Loop 16	36" loop	51.4	MI	Midland, Gratiot, Saginaw.
Loop 17	36" loop	26.8	MI	Lapeer, St. Clair.
		459.6		
Algonquin				
(Docket No. CP88–187–001)				
G–5 to G–12 Loop	24" loop	5.5	MA	Bristol.
G–8 to Wareham	20" replacement	5.2	MA	Plymouth, Barnstable.
E–1 to Salem	12" loop	4.9	CT	New London.
Mansfield Loop	36" loop	2.0	CT	Tolland, Windham.
Stony Point Loop	36" loop	8.2	NY	Rockland.
		25.8		
Transco				
(Docket No. CP89–7–001)				
Leidy Line	36" loop	1.61	PA	Northampton.
Transco				
(Docket No. CP89–710–000)				
Leidy Line	36" loop	6.79	PA/NJ	Northampton/Warren.
National Fuel/Penn-York				
(Docket No. CP88–194–001)				
Y–M54 Line	24" new	2.50	PA	Potter.
PennEast/CMG/Texas Eastern				
(Docket No. CP88–195–002)				
Line No. 546 Extension	20" replacement	0.38	NY	Erie.

TABLE 2—Continued

NIP PROJECT PIPELINE FACILITIES

Proposed facilities	Pipe diameter (inches)	Approximate Length (miles) [1]	State	County
CMG				
(Docket No. CP89-712-000)				
TL-470	30" new	2.35	NY	Albany, Rensselear.
Texas Eastern				
(Docket No. CP89-711-000)				
Line No. 24	24" loop	5.00	PA	Centre.
		546.13		

[1] Scaled from U.S. Geological Survey 7.5-minute-series topographic maps. Actual length of pipeline to be installed would be slightly longer due to terrain relief.

NIP PROJECT COMPRESSOR STATIONS

Proposed facilities	New NP	Added NP	Size of new station (acres)	State	County
Tennessee					
(Docket No. CP88-171-001)					
Section 230C		7,000		NY	Niagara.
Transco					
(Docket No. CP89-7-002)					
Station 205	12,000		[1] 99.84	NJ	Mercer.
Station 515		12,600		PA	Luzerne.
National Fuel/Penn York Energy					
(Docket No. CP88-194-002)					
Concord Station	8,600		[2] 70	NY	Erie.
Ellisburg Station Station		2,600		PA	Potter.
PennEast/CMG/Texas Eastern)					
(Docket No. CP88-195-002)					
State Line Station		2,200		PA	Potter.
CMG					
(Docket No. CP89-712-000)					
State Line Station		1,350		PA	Potter.
Utica Station		2,250		PA	Oneida.
Total	20,600	28,000			

[1] Only 6.1 acres would be developed.
[2] Only 6 acres would be developed.

Appendix—Additional Background Information

NIP Project Applicants and Proposed Facilities

Figures 1, 2, and 3 show the geographic locations of the proposed NIP Project's facilities. Table 2 lists the pipelines by size, length and location, and lists new and additional compression by horsepower and location. (See table 2 in the main body of the Notice of Intent).

Great Lakes

In Docket No. CP89-892-000 (filed on February 23, 1989), Great Lakes proposes to construct seventeen 36-inch-diameter pipeline loops for a total length of 459.6 miles within Minnesota (76.8 miles), Wisconsin (42.6 miles), and Michigan (340.2 miles). Great Lakes also proposes the replacement of aerodynamic assemblies at 11 existing compressor stations and piping modifications at 5 existing compressor stations.

Great Lakes' facilities would be designed to provide additional firm transportation service of 417,500 Mcfd of gas on behalf of TransCanada. TransCanada would deliver the gas at the existing interconnection with Great Lakes at the United States/Canadian border near Noyes, Minnesota. Great Lakes would deliver the gas back to TransCanada at two existing interconnections along the United States/Canadian border near Sault Ste. Marie and St. Clair, Michigan. TransCanada would require this transportation service primarily to satisfy the market requirements of the export customers in the Northeastern United States.

Tennessee

The NIP Project facilities proposed by Tennessee in Docket No. CP88-171-001 (filed on January 17, 1989) consist of a total of 42.1 miles of 30-inch-diameter pipeline loops in New York and Massachusetts, and 7,000 hp of additional compression at Compressor Station 230C in New York. Tennessee's proposal consists of two major components.

First, Tennessee proposes to construct and operate 31.4 miles of 30-inch-diameter pipeline loop on the Niagara Spur Line and 7,000 hp of additional compression at Compressor Station 230C in Niagara and Erie Counties, New York. The Niagara Spur loop would be jointly owned by Tennessee, National Fuel and PennEast and would be used to transport 346,400 Mcfd of Canadian gas from the Niagara Import Point. The owners' daily entitlement to this gas is as follows: Tennessee—83,900 Mcfd, PennEast—101,000 Mcfd, and National Fuel—161,500 Mcfd.

Tennessee proposes to construct and operate a total of 21.8 miles of 30-inch-diameter pipeline loop along its mainline in New York and Massachusetts, and to construct and modify measurement facilities on its existing pipeline system in New York, Connecticut, and Massachusetts. Tennessee's facilities would be used to provide up to 140,200 Mcfd of Canadian and domestic gas supplies to three new customers.

National Fuel/Penn York

In Docket No. CP88-194-001 (filed on January 27, 1989), National Fuel and Penn York propose to construct 2.5 miles of 24-inch-diameter pipeline, 8,600 hp of compression at a new compressor station in Concord, New York, and 2,600 hp of additional compression at National's existing Ellisburg Compression Station. These facilities, which are to be phased in over 1990 and 1991, would be used to transport 125,000 Mcfd of gas to Transco on the Leidy Line, 10,000 Mcfd of gas for National Fuel's own system supply, and 24,000 Mcfd for two cogeneration plants in New York.

PennEast, CNG, and Texas Eastern

In Docket No. CP88–195–002 (filed on January 27, 1989), the applicants propose to construct a new metering station and 2,000 feet (0.38 mile) of 20-inch-diameter pipeline, 2,200 hp of additional compression at CNG's existing State Line Compressor Station, new metering facilities at or near CNG's Ellisburg Compressor Station, and additional metering facilities at Leidy for deliveries to Transco and Texas Eastern. The facilities would be used to transport up to a total of 101,000 Mcfd as follows: 50,000 Mcfd for Northeast Energy Associates' Cogeneration plant in Bellingham, Massachusetts; 22,000 Mcfd for North Jersey Energy Associates Cogeneration Plant in Sayerville, New Jersey; and 29,000 Mcfd for Texas Eastern's system supply.

CNG

In Docket No. CP89–712–000 (filed on January 27, 1989), CNG proposes to construct 2.35 miles of new 30-inch-diameter pipeline, 3,600 hp of additional compression at two existing compressor stations, and to expand metering facilities at an existing meter station. These facilities would be used to transport 25,900 Mcfd for two cogeneration plants in New York. CNG proposes to transport 13,900 Mcfd for Cogen Energy Technology, Inc., a cogeneration plant near Brookview, New York, and 12,000 Mcfd for the Indeck Plant near Oswego, New York. CNG would receive delivery of the Canadian gas from Tennessee and National Fuel on the Niagara Spur loop at Marilla, New York.

Transco

Transco, in Docket Nos. CP89–7–001 and CP89–710–000 (filed on October 3, and January 27, 1989, respectively) proposes to construct two 36-inch-diameter pipeline loops totaling 8.4 miles on its existing Leidy Line, add 12,600 hp of compression at its existing Compressor Station 515, and install 12,000 hp of compression at its new Compressor Station 205 outside of Princeton, New Jersey.

The 1.61-mile, 36-inch-diameter loop on the Leidy Line in Northampton, Pennsylvania, the additional 12,600 hp of compression at Compressor Station 515, and the 12,000 hp of compression at the proposed Compressor Station 205 would be used to transport 125,000 Mcfd of Canadian gas to delivery for injection into storage or to points of delivery on the applicant's system. Transco proposes to phase the construction of these facilities. The 1.61-mile loop is proposed to be constructed in 1991 and would be used to transport 40,000 Mcfd of natural gas. The 24,600 hp of compression is proposed for 1990 construction and would be used to transport 85,000 Mcfd of natural gas.

Transco's 6.79-mile, 36-inch-diameter pipeline loop on the Leidy Line in Northhampton County, Pennsylvania and Warren County, New York is proposed to transport up to 72,000 Mcfd for delivery to three customers—Niagara Cogeneration Shippers, Northeast Energy Associates Limited Partnership and North Jersey Energy Associates.

Algonquin

In Docket No. CP88–187–001 (filed on January 17, 1989), Algonquin proposes to construct a total of 20.8 miles of 12-, 24-, and 36-inch-diameter pipeline loop; 5.2 miles of 20-inch-diameter replacement pipeline; and construction of a new metering station in Bellingham, Massachusetts. These facilities would be used to transport 62,817 Mcfd of gas for Northeast Energy Associates.

Texas Eastern

In Docket No. CP89–711–000 (filed on January 27, 1989), Texas Eastern proposes to construct 5.0 miles of 24-inch-diameter pipeline loop on its existing Leidy pipeline in Centre County, Pennsylvania. The facilities would be used to transport 29,000 Mcfd of Candian gas from Penneast at Leidy for delivery into Texas Eastern's supply system at Perulack.

Construction Procedures [1]

The proposed facilities would be constructed and operated in accordance with all applicable regulations. These include: 49 CFR Part 192—Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards; 18 CFR Part 2.69—Guidelines to be Followed by Natural Gas Pipeline Companies in the Planning, Clearing, and Maintenance of Rights-of-way; and other applicable Federal, state, and local regulations and permit requirements.

The NIP Project facilities are scheduled to be constructed in 1990 and 1991. Pipeline construction would begin with the clearing and grading of a 40- to 75-foot-wide construction right-of-way (depending primarily on pipe diameter) to prepare a relatively level strip to accommodate construction equipment. Replacement pipleines in or adjacent to existing rights-of-way will require less clearing and grading. Rotary wheel ditching machines, backhoes, or rippers, would be used to excavate a trench deep enough to provide the minimum depth of cover required by the U.S. Department of Transportation (normally 30–36 inches). Blasting would be required in areas of unrippable consolidated rock.

After trenching, pipe segments would be strung along the right-of-way, bent to conform to the contours of the trench, welded together, coated, and lowered into the trench. The trench would be backfilled using previously excavated materials if these are suitable for contact with the pipeline. If not, more suitable, rock-free material would be brought in to pad the trench. Topsoil that was conserved would be replaced at approximately its original position. The right-of-way would be restored to its original contours as much as practicable, and reseeded, limed, fertilized, and mulched in accordance with erosion and sedimentation control plans.

Special construction methods would be employed across wetlands, rivers, and streams to provide stable work areas for the construction equipment and to restore the begetation and prevent changes in natural drainage patterns. Small streams would be trenched using a backhoe, clam dredge, dragline, or similar equipment. For major river crossings, floating excavation quipment may be required to dig the trench. Blasting may be necessary for streams and rivers with rock bottoms. Work areas required for major river construction would be located back from the water line. Construction methods for crossing small wetlands would be similar to those used on dry land. Construction in large wetland areas would involve using the "push-pull" technique (i.e., after the trench is dug the pipe joints are welded together in one area, flotation devices are attached to the pipe, and the whole assembly is floted into position). Once the pipe is positioned over the trench the flotation devices are removed and the pipe settles to the bottom of the trench. The trench is then backfilled with suitable coarse material.

[1] Specific differences in construction procedures between companies which might affect the significance of impact will be noted in the EIS and, if necessary, modified by certificate conditions.

[FR Doc. 89–24630 Filed 10–18–89; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 3195–003 California]

Sayles Hydro Associates; Availability of Environmental Assessment

October 12, 1989.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for major license for the Sayles Flat Project located on the South Fork American River in El Dorado county near Twin Bridges, California, and has prepared a revised Environmental Assessment (EA) for the project. In the EA, the Commission's staff has analyzed the potential environmental impacts of the project and has concluded that approval of the project, with appropriate mitigative measures, 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 Branch, Room 1000, of the Commission's offices at 825 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 89–24642 Filed 10–18–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT90–1–000]

Black Marlin Pipeline Co.; Notice of Filing

October 12, 1989.

Take notice that on October 5, 1989, Black Marlin Pipeline Company tendered for filing to become a part of Black Marlin's FERC Gas Tariff,

Original Volume No. 1, the following tariff sheet:

1st Revised Sheet No. 223

Black Marlin asserts that such revised tariff sheet is being submitted to reflect the change in the electronic bulletin board service it utilizes to provide interested shippers pricing and capacity information. Black Marlin has contracted with US GASNET to replace "The Source" in providing the electronic bulletin board.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with the Commission's rules of practice & procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 19, 1989. 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. 89-24631 Filed 10-18-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-1-63-000]

Carnegie Natural Gas Co.; Proposed Changes in FERC Gas Tariff

October 12, 1989.

Take notice that on October 5, 1989, Carnegie Natural Gas Company ("Carnegie") tendered for filing the following two sets of alternate tariff sheets to its FERC Gas Tariff.

Alternate No. 1: To be implemented if Carnegie's First Revised Volume No. 1 to its FERC Gas Tariff is effective on the date these sheets become effective:

Eighteenth Revised Sheet No. 47
Eighteenth Revised Sheet No. 48

Alternate No. 2: To be implemented if Carnegie's Second Revised Volume No. 1 to its FERC Gas Tariff is effective on the date these sheets become effective:

First Revised Sheet No. 8
First Revised Sheet No. 9

Carnegie explains that the filing of alternate sheets arises because, on September 29, 1989, Carnegie filed a reorganized Volume No. 1 to its FERC Gas Tariff with a proposed effective date of November 1, 1989. If the reorganized tariff is not in effect on the date these out-of-cycle PGA rates become effective, then the Alternate No. 1 sheets will apply. Conversely, if the reorganized tariff is in effect, then the Alternate No. 2 sheets will apply.

Carnegie proposes that the appropriate sheets become effective on November 1, 1989, and requests a waiver of the Commission's regulations at 18 CFR 154.22 to this effect.

Carnegie states that this out-of-cycle purchased gas adjustment filing is made to reflect changes in its projected gas costs resulting from rate changes filed by its pipeline supplier, Texas Eastern Transmission Corporation, on September 29, 1989, with a proposed effective date of November 1, 1989. Carnegie proposes to adjust its rates to reflect a $.1830 per Dth increase in the applicable commodity components for its LVWS and CDS Rate Schedules, a $.0800 per Dth increase in the D-1 component, and a $.0008 per Dth increase in the D-2 component of those Rate Schedules. The proposed increase in the LVIS Rate Schedule is $.1896 per Dth.

Carnegie states tht copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 20, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make any protestant a party to the proceedings. 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. 89-24639 Filed 10-18-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA90-1-23-002]

Eastern Shore Natural Gas Co.; Proposed Changes in FERC Gas Tariff

October 12, 1989.

Take notice that Eastern Shore Natural Gas Company (ESNG) tendered for filing on October 10, 1989 certain recopied tariff sheets included in Appendix A attached to this filing. Such recopied sheets were proposed to be effective November 1, 1989.

ESNG states that such tariff sheets are from its annual PGA filing pursuant to 154.308 of the Commission's regulations and Section 21 of its FERC Gas Tariff, Original Volume No. 1. Tariff sheets 49th Revised Sheet No. 11 and 50th Revised Sheet No. 12 are being refiled due to improper coping of the original sheets, therefore, are for replacement purposes only to the September 8, 1989 filing.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC in accordance with Rule 211 and Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before November 2, 1989. 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. 89-24635 Filed 10-18-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-1-33-003]

El Paso Natural Gas Co.; Compliance Tariff Filing

October 12, 1989.

Take notice that on October 5, 1989, El Paso Natural Gas Company ("El Paso") tendered for filing pursuant to Part 154 of the Federal Energy Regulatory Commission's ("Commission") Regulations Under the Natural Gas Act, certain tariff sheets for inclusion in its FERC Gas Tariff, First Revised Volume No. 1 and Third Revised Volume No. 2, in compliance with the Commission's order issued September 29, 1989 at Docket Nos. TQ90-1-33-000, TQ90-1-33-001 and TQ90-1-33-002.

El Paso states that in compliance with the September 29, 1989 order, El Paso is submitting the tariff sheets to eliminate the Order No. 500 Special Surcharge from its Quarterly PGA rates to be effective October 1, 1989. Such action is necessary as a result of the order issued September 29, 1989 at Docket Nos. RP89-230-000, RP89-230-001, TM90-1-

33–000 and TM90–1–33–001, whereby the Commission accepted, effective October 1, 1989, certain El Paso tariff sheets which established a Monthly Direct Charge for certain firm sales customers in lieu of the Order No. 500 Special Surcharge.

El Paso respectfully requests that the Commission grant such waivers of its applicable rules and regulations as may be necessary to permit the tendered tariff sheets to become effective October 1, 1989.

Copies of the filing were served upon all interstate pipeline system sales customers of El Paso and interested state regulatory commissions.

Any personn desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure [18 CFR 385.214, 385.211 (1988)]. All such protests should be filed on or before October 20, 1989. 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. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89–24636 Filed 10–18–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT90–2–000]

Florida Gas Transmission Co.; Notice of Filing

October 12, 1989.

Take notice that on October 5, 1989, Florida Gas Transmission Company tendered for filing to become a part of FGT's FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets:

1st Revised Sheet No. 57]
1st Revised Sheet No. 57K

FGT asserts that such revised tariff sheets are being submitted to reflect the change in the electronic bulletin board service it utilizes to provide interested shippers pricing and capacity information. Florida Gas Transmission Company has contracted with US GASNET to replace "The Source" in providing the electronic bulletin board.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20526, in accordance with the Commission's Rules of Practice & Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 19, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will 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. 89–24632 Filed 10–18–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT90–3–000]

Northern Natural Gas Company Division of Enron Corp.; Notice of Filing

October 12, 1989.

Take notice that on October 5, 1989, Northern Natural Gas Company, Division of Enron Corp., tendered for filing to become a part of Northern's FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheet:

Third Revised Sheet No. 52f.21

Northern asserts that such revised tariff sheet is being submitted to reflect a change in the computer services firm retained by Northern to provide an electronic bulletin board on Northern's behalf.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with the Commission's Rules of Practice & Procedure (18 CFT 385.211, 385.214). All such motions or protests should be filed on or before October 19, 1989. 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. 89–24637 Filed 10–18–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. MT88–11–005]

Northwest Pipeline Corp; Proposed Changes in FERC Gas Tariff Pursuant to Order No. 497

October 12, 1989.

Take notice that on September 28, 1989, Northwest Pipeline Corporation (Northwest), tendered the following tariff sheets for filing in the captioned docket pursuant to Order No. 497 and section 250.16 of the Commission's Regulations as part of its FERC Gas Tariff, Original Volume No. 1–A:

First Revised Sheet No. 423
First Revised Sheet No. 423–A
Second Revised Sheet No. 428
First Revised Sheet No. 432

Any person desiring to be heard or to protest the subject filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with 18 CFR sections 385.214 and 385.211. All such motions or protests should be filed on or before October 20, 1989. 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. 89–24633 Filed 10–18–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ90–1–17–000]

Texas Eastern Transmission Corp.; Proposed Change in FERC Gas Tariff

October 12, 1989.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on September 29, 1989, tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Fifth Revised Volume No. 1:

Seventeenth Revised Sheet No. 50
Twelfth Revised Sheet No. 50A
Twelfth Revised Sheet No. 50B
Twelfth Revised Sheet No. 50C
Twelfth Revised Sheet No. 50D

The proposed effective date of these revised tariff sheets is November 1, 1989.

Texas Eastern states that these revised tariff sheets filed herewith reflect a Demand-1 and Demand-2 rate decrease of $(0.20)/dth and $(0.0006)/dth, respectively, and a commodity rate increase of $.3024 per Dt, representing

Texas Eastern's projected quarterly cost of purchased gas.

Texas Eastern further states that the commodity rate adjustment reflects an estimated impact of $0.27/dth as a result of the fulfillment of the Warranty Contract with Chevron USA Inc (Chevron), and the delivery thereafter of volumes of natural gas pursuant to the Tail End Gas Agreement dated April 11, 1986, as supplemented on July 21, 1986, between Chevron and Texas Eastern. Pursuant to the provisions of the Tail End Gas Agreement, Chevron and Texas Eastern have been negotiating gas purchase contracts for the purchase of natural gas and have reached agreement in principal on the pricing and quantity terms of those gas purchase contracts.

Texas Eastern further states that the above tariff sheets include the GSI Unit Rate to be effective as of November 1, 1989. The GSI Unit Rate has been calculated based upon the projected cost of purchased gas included in the instant PGA filing and in accordance with the requirement of Section 28, Gas Supply Inventory Reservation Charge, in the General Terms and Conditions of Texas Eastern's FERC Gas Tariff, Fifth Revised Volume No. 1.

Texas Eastern states that the above-referenced tariff sheets are being filed in accordance with § 154.308 (quarterly PGA filing) of the Commission's Regulations and pursuant to Section 23 (Purchased Gas Cost Adjustment Clause) of Texas Eastern's FERC Gas Tariff, Fifth Revised Volume No. 1 to reflect changes in Texas Eastern's rates effective November 1, 1989.

Texas Eastern states copies of its filing have been served on all Authorized Purchasers of Natural Gas from Texas Eastern and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Regulatory Commision, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 19, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89-246740 Filed 10-18-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-68-020]

Transcontinental Gas Pipe Line Corp.; Compliance Filing

October 12, 1989.

Take notice that on October 6, 1989, Transcontinental Gas Pipe Line Corporation (Transco) filed to accept certain settlements approved and modified by Commission order dated September 29, 1989 in the referenced proceedings. Transco proposes an effective date for the settlements of November 1, 1989.

Specifically, Transco states that it accepts the August 7, 1989 Revised Stipulation and Agreement, the August 11, 1989 settlement with National Fuel, and the August 11, 1989 settlement with Transco's G and OG customers, all of which settlements were filed in Docket Nos. RP88-68 *et al.* Transco states that its filing (1) accepts the certificate of public convenience and necessity issued in Docket No. CP89-1915-000 which certificate authorizes Transco to provide an interim firm sales service; (2) accepts the certificate of public convenience and necessity issued in Docket No. CP89-1916-000 which certificate authorizes Transco to allocate its upstream transportation capacity; (3) accepts the amendment to Transco's existing certificates in Docket Nos. CP84-335-002, CP83-228-000, CP61-194-000, and G-2432-000 which amendment authorizes Transco to modify the restrictions on the injection or return to storage under Rate Schedules GSS, LSS, LG-A and S-2 of gas purchased from parties other than Transco; (4) accepts the amendment to Transco's existing certificate in Docket No. CP74-33-013 which amendment authorizes Transco to provide for daily withdrawal entitlements for its Washington Storage Service customers; (5) submits compliance tariff sheets to implement the foregoing certificate authorizations and amendments and (6) submits compliance tariff sheets to implement the rates and other tariff provisions under the above mentioned settlements effective November 1, 1989.

Transco states that copies of the instant filing are being mailed to all parties served with copies of the above mentioned settlements. In accordance with the provisions of Section 154.16 of the Commission's Regulations, copies of this filing are available for public inspection during regular business hours, in a convenient form and place at Transco's main offices at 2800 Post Oak Boulevard in Houston, Texas.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC. 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before Oct. 19, 1989. 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. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-24634 Filed 10-18-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-5-000]

Transcontinental Gas Pipe Line Corp.; Petition for Authority To Waive Tariff Provisions

October 12, 1989.

Take notice that on October 4, 1989, Transcontinental Gas Pipe Line Corporation (Transco) filed a petition to waive the gas source restriction provision of its Rate Schedule LG-S. Transco states that the reason for this petition is the need to conform to other waivers of gas source restrictions obtained as part of the Commission's approval of the August 7, 1989 Revised Stipulation and Agreement in Docket No. RP88-68-000, *et al.* Transco states that Rate Schedule LG-S was not addressed in its August 7, 1989 Settlement which was approved by Commission order dated September 29, 1989. Transco states that this petition is seeking a waiver to provide a short term

solution to its customers' need for flexibility with respect to Rate Schedule LG–S. Transco states that in the long term it will continue to work with its customers to reach mutually agreeable Rate Schedule LG–S tariff provisions.

Specifically, Transco requests for the period commencing with the Commission's approval of this petition through December 31, 1989: (1) Authority to waive section 1.1(a) of Rate Schedule LG–S to the extent it requires a Buyer under Rate Schedule LG–S to be purchasing gas from Transco under Transco's CD, G or OG Rate Schedules; (2) authority to waive section 6 in its entirety; and (3) authority to allow a Buyer under Rate Schedule LG–S to arrange for same day delivery of natural gas to Transco at its liquefaction-storage plant location near Carlstadt, New Jersey, using Transco's Rate Schedule IT or FT. The quantity of natural gas to be concurrently delivered to Transco at the liquefaction-storage plant shall be the dt delivered by Transco to Buyer under Rate Schedule LG–S, multiplied by a factor of 1.18, to compensate for fuel and shrinkage at the liquefaction-storage plant.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure [18 CFR 385.214, 385.211 (1988)]. All such motions or protests should be filed on or before October 19, 1989. 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. 89–24641 Filed 10–18–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. MT89–1–002]

Williston Basin Interstate Pipeline Co., Proposed Changes in FERC Gas Tariff Pursuant to Order No. 497

October 12, 1989.

Take notice that on September 29, 1989, Williston Basin Interstate Pipeline Company (Williston), tendered the following tariff sheets for filing in the captioned docket pursuant to Order No. 497 and § 250.16 of the Commission's Regulations as part of its FERC Gas Tariff, Original Volume No. 1–B:

Second Revised Sheet No. 169
First Revised Sheet No. 169A

Any person desiring to be heard or to protest the subject filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with 18 CFR sections 385.214 and 385.211. All such motions or protests must be filed by October 20, 1989. 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. 89–24638 Filed 10–18–89; 8:45 am]

BILLING CODE 6717–01–M

Office of Fossil Energy

[Docket No. FE C&E 90–01; Certification Notice—49]

Filing Certification of Compliance: Coal Capability of New Electric Powerplant; Boston Edison Co.

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of filing.

SUMMARY: Title II of the Powerplant and Industrial Fuel Use Act of 1978, as amended, ("FUA" or "the Act") [42 U.S.C. 8301 *et seq.*) provides that no new electric powerplant may be constructed or operated as a base load powerplant without the capability to use coal or another alternate fuel as a primary energy source (section 201(a), 42 U.S.C. 8311(a), Supp. V. 1987). In order to meet the requirement of coal capability, the owner or operator of any new electric powerplant to be operated as a base load powerplant proposing to use natural gas or petroleum as its primary energy source may certify, pursuant to section 201(d), to the Secretary of Energy prior to construction, or prior to operation as a base load powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes compliance with section 201(a) as of the date it is filed with the Secretary. The Secretary is required to publish in the **Federal Register** a notice reciting that the certification has been filed. One owner and operator of a proposed new electric base load powerplant has filed a self-certification in accordance with section 201(d).

Further information is provided in the **SUPPLEMENTARY INFORMATION** section below.

SUPPLEMENTARY INFORMATION: The following company has filed a self-certification:

Name	Date received	Type of facility	Megawatt capacity	Location
Boston Edison Company Boston, MA	10–05–89	Combined Cycle	300	Weymouth, MA.

Amendments to the FUA on May 21, 1987, (Public Law 100–42) altered the general prohibitions to include only new electric base load powerplants and to provide for the self-certification procedure.

Copies of this self-certification may be reviewed in the Office of Fuels Programs, Fossil Energy, Room 3F–056, FE–52, Forrestal Building, 1000 Independence Avenue S.W., Washington, DC 20585, phone number (202) 586–6769.

Issued in Washington, DC, on October 12, 1989.

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 89–24706 Filed 10–18–89; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. FE C&E 89–17; Certification Notice—43A]

Filing Certification of Compliance: Coal Capability of New Electric Powerplant; Cornerstone Energy Co.

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of filing.

SUMMARY: Title II of the Powerplant and Industrial Fuel Use Act of 1978, as amended, ("FUA" or "the Act") (42 U.S.C. 8301 *et seq.*) provides that no new electric powerplant may be constructed or operated as a base load powerplant without the capability to use coal or another alternate fuel as a primary energy source (section 201(a), 42 U.S.C. 8311 (a), Supp. V. 1987). In order to meet the requirement of coal capability, the owner or operator of any new electric powerplant to be operated as a base load powerplant proposing to use natural gas or petroleum as its primary energy source may certify, pursuant to section 201(d), to the Secretary of Energy prior to construction, or prior to operation as a base load powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes compliance with section 201(a) as of the date it is filed with the Secretary. The Secretary is required to publish in the **Federal Register** a notice reciting that the certification has been filed. One owner and operator of a proposed new electric base load powerplant has filed a self certification in accordance with section 201(d).

Further information is provided in the **SUPPLEMENTARY INFORMATION** section below.

SUPPLEMENTARY INFORMATION: The following company previously filed a self certification:

Name	Date received	Type of facility	Megawatt capacity	Location
Cornerstone Energy Company, Salt Lake City, UT [1]	08-21-89	Combined Cycle	45	Boulder City, NV

[1] Company's address was erroneously listed on the previous certification as Miami, FL (54 FR 37708). It should have been Salt Lake City, UT.

Amendments to the FUA on May 21, 1987, (Pub. L. 100-42) altered the general prohibitions to include only new electric base load powerplants and to provide for the self certification procedure.

Copies of this self certification may be reviewed in the Office of Fuels Programs, Fossil Energy, Room 3F-056, FE-52, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, phone number (202) 586-6769.

Issued in Washington, DC, on October 12, 1989.

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 89-24707 Filed 10-18-89; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Cases Filed During the Week of September 1 Through September 8, 1989; M.A. Malik et al.

During the week of September 1 through September 8, 1989, the appeals and applications for other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: October 6, 1989.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Sept. 1 through Sept. 8, 1989]

Date	Name and Location of Applicant	Case No.	Type of Submission
Sept. 5, 1989	M.A. Malik, Hartford, CT	KFA-0316	Appeal of an Information Request Denial. If Granted: The August 31, 1989 Freedom of Information Request Denial issued by the DOE Office of Scientific and Technical Information would be rescinded and M.A. Malik would not be charged fees in connection with his FOIA request.
Sept. 7, 1989	Amoco/Illinois, Springfield, IL	RM251-159	Request for Modification/Rescission in the Amoco Second Stage Refund Proceeding. If Granted: A second stage refund plan previously approved for Illinois would be modified in the Amoco second stage refund proceeding.
Sept. 8, 1989	The DIE Gem Company, Inc., Akron, OH	KFA-0317	Appeal of an Information Request Denial. If Granted: The August 1, 1989 Freedom of Information Request Denial issued by the DOE Office of the Inspector General would be rescinded and the firm would receive access to documents pertaining to the DIE Gem Co., Inc. and its employees.

REFUND APPLICATIONS RECEIVED

[Week of Sept. 1 to Sept. 8, 1989]

Date Received	Name of Refund Proceeding/Name of Refund Applicant	Case No.
03/01/89	Colesville Exxon	RF307-10050.
08/31/89	Chaney Oil Co	RF314-76.
09/01/89	OKC Corp/Kansas	RQ13-531.
09/01/89	Warren J. Peake	RF307-10051.
09/05/89	Fred M. Burkhart	RF307-10055.
09/05/89	Larnor Service Station.	RF307-10052.
09/05/89	Glenn T. Kotoras	RF307-10054.
09/06/89	Chesapeake Corporation.	RF307-10057.
09/06/89	James D. Gouldin, Sr.	RF307-10056.
09/06/89	Triple T. Superette	RC272-70.
09/01/89	Crude Oil Refund Applications Received.	RF272-75633 thru RF272-75650.
09/01/89 thru 09/08/89.	Atlantic Richfield Refund Applications Received.	RF304-10292 thru RF304-10299.
09/01/89 thru 09/08/89.	Shell Oil Refund Applications Received.	RF315-7057 thru RF315-7100.

[FR Doc. 89-24708 Filed 10-18-89; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3672-9]

Relative Risk Reduction Strategies Committee Subcommittee Meetings

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92-463, notice is hereby given of a series of public meetings of the three Subcommittees of the Relative Risk Reduction Strategies Committee (RRRSC). For further information concerning this project, please refer to the notices contained in 54 Federal Register 35386, August 25, 1989, and 54 Federal Register 38282, September 15, 1989. The Subcommittees and meetings are as follows:

ENVIRONMENTAL RISK SUBCOMMITTEE: This Subcommittee will meet on October 21-22, 1989 in Room 18 of the Williamsburg Hilton Hotel, 50 Kingsmill Road, Williamsburg, Virginia 23185, Telephone: (804) 220-2500. The meeting will take place from 9:00 am to 5:00 pm on October 21, 1989 and from 8:30 am to 2:30 pm on October 22, 1989. The purpose is to discuss environmental and welfare-related risk reduction strategies. The Designated Federal Official for this Subcommittee is Mr. A. Robert Flaak.

RELATIVE RISK SUBCOMMITTEE: This Subcommittee will meet from 10:00 am to 4:00 pm on October 30, 1989 at Howard Johnson's National Airport Hotel, 2650 Jefferson Davis Highway, Arlington, Virginia. The purpose is to identify risk reduction activities relevant to environmental problems and to define strategies based on those activities. The Designated Federal Official for this Subcommittee is Mrs. Kathleen W. Conway.

HEALTH RISK SUBCOMMITTEE: This Subcommittee will meet from 9:00 am to 5:00 pm on November 13-14, 1989 at the Stouffer Concourse Crystal City Hotel, 2399 Jefferson Davis Highway, Arlington, Virginia. The purpose of this meeting is to discuss development of environmental health risk reduction strategies. The Designated Federal Official for the Subcommittee is Mr. Samuel Rondberg.

FOR FURTHER INFORMATION: Members of the public wishing further information concerning any of the three Subcommittees or their meetings should contact the relevant Designated Federal Official at the following address: U.S. Environmental Protection Agency (A-101F), 401 M Street, SW, Washington, DC, (202) 382-2552, (FTS) 382-2552, FAX (202) 475-9693. For further information on the entire project, or the RRRSC itself, please contact Dr. Donald G. Barnes, Designated Federal Official for the RRRSC. Dr. Donald G. Barnes, Designated Federal Official for the RRRSC. Dr. Barnes may be contacted at the same address, or at (202) 382-4126, (FTS) 382-4126. Seating at each meeting is on a first come basis.

Dated: October 13, 1989.

A. Robert Flaak,

Deputy Director Science Advisory Board.

[FR Doc. 89-24847 Filed 10-18-89; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3672-4]

Salvage Oil Site: Notice of Proposed Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proposed Settlement.

SUMMARY: Under section 122(h) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), The Environmental Protection Agency (EPA) has agreed to settle claims for past response costs at the Salvage Oil Site, Rockingham, North Carolina with Carolina Packaging, Inc., J.P.S. Carpet Corp., Lear Siegler Diversified Holdings Corp., Libbey-Owens Ford Co., Owens-Illinois Inc., Pfizer Inc., Sara Lee Hosiery, Goodyear Tire and Rubber Co., and the South Carolina Department of Highways and Public Transportation. EPA will consider public comments on the proposed settlement for thirty days. EPA may withdraw from or modify the proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper or inadequate. Copies of the proposed settlement are available from: Ms. Carolyn McCall, Investigation Support Assistant, Investigation and Cost Recovery Unit, Site Investigation and Support Branch, Waste Management Division, U.S. EPA, Region IV, 345 Courtland St., NE. Atlanta, GA 30365, (404) 347-5059.

Written comments may be submitted to the person above by 30 days from date of publication.

Dated: October 3, 1989.

Patrick M. Tobin,

Director, Waste Management Division EPA Region IV.

[FR Doc. 89-24689 Filed 10-18-89; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202-007680-078

Title: American West African Freight Conference

Parties:

American-Africa Europe Line GMBH
Barber West Africa Line
Farrell Lines, Inc.
Maersk Line
Societe Iviorience de Transport Maritime, SITRAM
Torm West Africa Line
Westwind Africa Line

Synopsis: The proposed amendment would permit a party to

disassociate itself from any rate or service item agreed to by the Conference. It would also make certain changes regarding quorum and membership surety bonding requirements.

Agreement No.: 212–010286–021
Title: South Europe/U.S.A. Pool Agreement
Parties:
Compania Transatlantica Espanola, S.A.
Costa Container Line
Evergreen Marine Corporation (Taiwan) Ltd.
Farrell Lines, Inc.
Italia di Navigazione, S.p.A.
Jugolinija
Lykes Lines (Lykes Bros. Steamship Co., Ltd.)
A.P. Moller-Maersk Line
Nedlloyd Lines (Nedlloyd Lijnen B.V.)
P & O Containers (TFL) Ltd.
Sea-Land Service, Inc.
Zim Israel Navigation Company, Ltd.
Synopsis: The proposed modification clarifies the geographic scope of the agreement by expressly excluding the Canary Islands as ports of origin.

Agreement No.: 202–010748–007
Title: West Coast/Middle East and West Asia Rate Agreement
Parties:
American President Lines, Ltd.
Dampskibsselskabet AF 1912 Aktieselskab
Synopsis: The proposed modification would republish the basic agreement and incorporate authority permitted by previous modifications of the agreement.

Agreement No.: 203–010977–008
Title: Hispaniola Discussion Agreement
Parties:
United States Atlantic and Gulf/Hispaniola Steamship Freight Association
Zim Israel Navigation Co.
Tropical Shipping and Construction Co., Ltd.
Seaborad Caribe Ltd.
Antillean Marine Shipping Corporation
U.S.A. Tecmarine Incorporated d/b/a Tecmarine Lines
Kirk Line, Ltd.
Synopsis: The proposed amendment would: (1) Restate the basic agreement; (2) add the Shipping Corporation of Trinidad & Tobago, Ltd., as a party to the Agreement; (3) delete the limitation on Anitillean Marine Shipping Corporation's participation; (4) provide sailing rationalization authority; and (5) provide voting with respect to the establishment of joint sailing rationalization.

Agreement No.: 203–011038–001
Title: Southeastern Caribbean Discussion Agreement
Parties:
United State Atlantic and Gulf/Southeastern Caribbean Conference
Trailer Marine Transport Corporation
Synopsis: The proposed amendment would add Tecmarine Line, Inc., as a party to the Agreement.

Agreement No.: 232–011253
Title: Deppe/Lykes Reciprocal Space Charter and Coordinated Sailing Agreement
Parties:
Deppe Linie GmbH & Co.
Lykes Bros. Steamship Co., Inc.
Synopsis: Agreement No. 232–011253 proposes to establish space charter and coordinated sailing arrangements between Deppe Linie GmbH & Co., and Lykes Bros., in the trade between the U.S. and North Europe.

By Order of the Federal Maritime Commission.

Dated: October 13, 1989.

Joseph C. Polking,
Secretary.

[FR Doc. 89–24619 Filed 10–18–89; 8:45 am]
BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Capitol Bancorp. Ltd., 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 applications 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 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, indentifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 6, 1989.

A. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Capitol Bancorp. Ltd.*, Lansing, Michigan; to acquire 100 percent of the voting shares of Portage Commerce Bank, Portage, Michigan.

2. *Gore-Bronson Bancorp, Inc.*, Prospect Heights, Illinois; to acquire 100 percent of the voting shares of Irving Bancorp, Inc., Chicago, Illinois, and thereby indirectly acquire The Irving Bank, Chicago, Illinois.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Appleton City Bancshares, Inc.*, Appleton City, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens Bank of Appleton City, Appleton City, Missouri.

2. *Wallco, Inc.*, Newhawka, Nebraska; to become a bank holding company by acquiring 80 percent of the voting shares of The Newhawka Bank. Newhawka, Nebraska.

3. *Weld State Company*, Fort Lupton, Colorado; to acquire 100 percent of the voting shares of First National Bank of Windsor, Windsor, Colorado.

Board of Governors of the Federal Reserve System, October 13, 1989.

Jennifer J. Johnson,
Associate Secretary of the Board.

[FR Doc. 89–24692 Filed 10–18–89; 8:45 am]
BILLING CODE 6210–01–M

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the

Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 2, 1989.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. John A. Coccomo, Sr., Windsor, Connecticut; to acquire an additional 10.1 percent of the voting shares of Olde Windsor Bancorp, Inc., Windsor, Connecticut, for a total of 20.0 percent, and thereby indirectly acquire New England Bank and Trust Company, Windsor, Connecticut.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. The Graham Group, Inc., Des Moines, Iowa; to acquire 5.15 percent of the voting shares of First Interstate of Iowa, Inc., Des Moines, Iowa, and thereby indirectly acquire First Interstate Bank of Des Moines, N.A., Des Moines, Iowa.

Board of Governors of the Federal Reserve System, October 13, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-24693 Filed 10-18-89; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR-14]

Data Needs Related to Priority Group One Toxicological Profiles

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Public Health Service (PHS), Department of Health and Human Services (HHS).

ACTION: Request for unpublished or ongoing studies relevant to priority group one toxicological profiles.

SUMMARY: Section 104(i)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund), as amended by the Superfund Amendments and Reauthorization Act (SARA) (Pub. L. 99-499), requires that ATSDR prepare (1) a list of hazardous substances most commonly found at NPL sites (in order of priority), (2) toxicological profiles of those substances, and (3) a research program to fill data gaps associated with the substances. As part of its research program ATSDR is now updating the data needs sections of some of its first profiles. Through this notice, ATSDR is soliciting unpublished or ongoing studies relevant to the following list of substances.

Substance name	CAS Number
Aldrin/Dieldrin	309-00-2/60-57-1
Arsenic	7440-38-2
Benzene	71-43-2
Beryllium	7440-41-7
Cadmium	7440-43-9
Chloroform	67-66-3
Chromium	7440-47-3
Cyanide	57-12-5
1,4-Dichlorobenzene	106-46-7
Di(2-ethylhexyl)phthalate	117-81-7
Heptachlor/Heptachlor epoxide	76-44-8/1024-57-3
Lead	7439-92-1
Methylene chloride	75-09-2
Nickel	7440-02-0
N-nitrosodiphenylamine	86-30-6
Polychlorinated biphenyls (PCBs)	
(Aroclor -1260,	11096-82-5
-1254,	11097-68-1
-1248,	12672-29-6
-1242,	53469-21-9
-1232,	11141-16-5
-1221 and	11104-28-2
-1016)	12674-11-2
2,3,7,8-Tetrachlorodibenzo-p-dioxin	1746-01-6
Tetrachloroethene	127-18-4
Trichloroethylene	79-01-6
Vinyl Chloride	75-01-4

DATE: Comments concerning this notice must be received by November 20, 1989.

ADDRESS: Submissions in response to this notice should bear the docket control number ATSDR-14 and should be submitted to Mr. Edward Skowronski, Division of Toxicology, Agency for Toxic Substances and Disease Registry, Mailstop E-29, 1600 Clifton Road, N.E., Atlanta, Georgia 30333. Comments on this notice will be available for public inspection at the Agency for Toxic Substances and Disease Registry, Building 37, Executive Park Drive, Atlanta, Georgia 30329, from 8 a.m. until 4:30 p.m., Monday through Friday, except for legal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Skowronski, Division of Toxicology, Agency for Toxic Substances and Disease Registry, Mailstop E-29, 1600 Clifton Road, N.E., Atlanta, Georgia 30333. Telephone: (404) 639-0730.

SUPPLEMENTARY INFORMATION

I. *Background:* On October 17, 1986, the President signed the Superfund Amendments and Reauthorization Act of 1986 (Pub. L. 99-499), which extends and amends the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 CERCLA or Superfund (42 U.S.C. 9601 et seq.). Section 110 of SARA amends section 104(i) of CERCLA by establishing requirements for the preparation of (1) lists of hazardous substances in order of priority, (2) toxicological profiles of those substances, and (3) a research program to fill data gaps associated with the substances.

Each profile is required to include an examination, summary and interpretation of available toxicological information and epidemiologic evaluations. This information and data are to be used to ascertain the levels of significant human exposure for the substance and the associated health effects. The profiles must also include a determination of whether adequate information on the health effects of each substance is available or in the process of development. When adequate information is not available, ATSDR, in cooperation with the National Toxicology Program, is required to assure the initiation of a program of research designed to determine these health effects.

Although ATSDR is confident that key studies for each of the listed substances have been considered during the development of the associated profile, this **Federal Register** notice solicits any unpublished data or ongoing studies which may aid in the determination of data needs for these substances.

II. *Administrative Record:* ATSDR has established a public version of this record with materials pertaining to this notice (ATSDR-14). The public file is available for inspection during the times and at the address given in the section of this notice entitled **ADDRESS.**

Dated: October 12, 1989.

George E. Hardy,

Acting Administrator, Agency for Toxic Substances and Disease Registry.

[FR Doc. 89-24063 Filed 10-18-89; 8:45 am]

BILLING CODE 4160-70-M

Centers for Disease Control

National Committee on Vital and Health Statistics (NCVHS): Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that the National Committee on Vital and Health Statistics established pursuant to 42 U.S.C. 242k, section 306(k)(2), of the Public Health Service Act, as amended, announces the following meeting.

Name: National Committee on Vital and Health Statistics.

Time and Date: November 1, 1989—1:30 p.m.-5 p.m.; November 2, 1989—9 a.m.-5 p.m.; November 3, 1989—9 a.m.-1:30 p.m.

Place: Room 703A, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

Status: Open.

Purpose: The purpose of this meeting is for the NCVHS to receive and consider reports from each of its subcommittees and to address new business as appropriate.

Contact person for more information: Substantive program information as well as summaries of the meeting and roster of Committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, NCVHS, Room 2–12, Center Building, 3700 East West Highway, Hyattsville, Maryland 20782, telephone number (301) 436–7050.

Dated: October 16, 1989.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 89–24776 Filed 10–17–89; 11:04 am]

BILLING CODE 4160–18–M

Family Support Administration

Child Support Enforcement Program; Hearing

AGENCY: Office of Child Support Enforcement (OCSE), FSA, HHS.

ACTION: Notice of hearing.

SUMMARY: By designation of the Acting Director, Office of Child Support Enforcement, a member of the Departmental Appeals Board will hold a hearing pursuant to 45 CFR part 213 and 45 CFR 301.14 concerning the Acting Director's disapproval of a State plan amendment submitted by the State of Ohio.

DATE: 9:30 a.m., Monday, December 18, 1989.

Place: Room 644G—Departmental Appeals Board, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

Requests to participate: Requests to participate as a party or as amicus curiae must be submitted to the Departmental Appeals Board in the form specified at 45 CFR 213.15 by November 3, 1989.

FOR FURTHER INFORMATION CONTACT: Peggy McFadden, Staff Attorney, Departmental Appeals Board, Department of Health and Human Services, Room 637–D, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, telephone (202) 475–0009.

SUPPLEMENTAL INFORMATION: Notice of hearing is hereby given as set forth in the following letter, which has been sent to the Ohio Department of Human Services.

Mr. Roland T. Hairston
Director Ohio Department of Human Services
30 East Broad Street
Columbus, Ohio 43266–0423

Dear Mr. Hairston:

This letter is in response to your letter of September 13 requesting reconsideration of the Acting Director's decison of August 10 disapproving Ohio's proposed State plan amendment 88–27 regarding application for title IV-D child support services by operation of State law.

Pursuant to 45 CFR 301.14 and 45 CFR 213.12, I am scheduling a hearing to be held on December 18 1989 in Washington, DC at 9:30 a.m. in room 644–G of the Departmental Appeals Board, Hubert H. Humphrey Building, 1200 Independence Avenue, SW., Washington, DC 20201.

In accordance with 45 CFR 213.21, I have designated a member of the Departmental Appeals Board, Mr. Alexander G. Teitz, as presiding officer for the hearing on this matter. A copy of the designation is enclosed. The hearing will be conducted under the provisions of 45 CFR part 213.

The hearing will involve reconsideration of the issue of whether Ohio's proposed State plan amendment 88–27 is in conformance with the requirements of 42 U.S.C. 654(6) and 45 CFR 302.33 which provide that the State make title IV–D services available to any individual not otherwise eligible for such services who files an application with the IV–D agency. In addition, OCSE Policy in AT–76–9 (June 9, 1976) provides:

"In order to comply with the statutory requirements of filing an application, the application must be in writing, and may not be an oral application. The application must be signed by the individual applying for child support services."

The hearing will reconsider my finding of August 10 that Ohio's proposed amendment is not in conformance with these requirements, since the obligees covered by this proposed amendment will not have filed a signed application for IV–D services.

Any further inquiries, submissions or correspondence regarding this hearing should be filed in an original and two copies with the Departmental Appeals Board, Room 637–D, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, where the record of this hearing will be kept. Each submission must include a statement that a copy of the material has been sent to the other party, identifying when and to whom the copy was sent. For convenience, please refer to Docket No. 89–200 which has been assigned to these proceedings.

Sincerely,
Eunice S. Thomas,
Acting Director.

Eunice S. Thomas,

Acting Director, Office of Child Support Enforcement.

Dated: October 13, 1989.

[FR Doc. 89–24702 Filed 10–18–89; 8:45 am]

BILLING CODE 4150–04–M

Food and Drug Administration

[Docket No. 87P–0207]

Canned Pacific Salmon Deviating From Identity Standard; Amendment of Temporary Marketing Permit; Bumble Bee Seafoods, Inc.

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit, issued to Bumble Bee Seafoods, Inc., to market test canned skinless and boneless chunk salmon packed in water and containing sodium tripolyphosphate to inhabit protein curd formation during retorting, is being amended to add another test-product manufacturing plant. This amendment will provide a broader base for the collection of data on consumer acceptance of the test produce.

FOR FURTHER INFORMATION CONTACT: James F. Lin, Center for Food Safety and Applied Nutrition (HFF–414), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–485–0122.

SUPPLEMENTARY INFORMATION: FDA issued a temporary permit under the provisions of 21 CFR 130.17 to Bumble Bee Seafoods, Inc., 5775 Roscoe Ct., San Diego, CA 92123, to market test canned skinless and boneless chunk salmon packed in water and containing added sodium tripolyphosphate to inhibit protein curd formation during retorting. The purpose of the temporary permit is to measure consumer acceptance of the new style of pack. The agency issued the permit to facilitate market testing of a food that deviates from the requirements of the standard of the identity for canned Pacific salmon (21 CFR 161.170), which was promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341). Notice of issuance of the temporary permit to Bumble Bee Seafoods, Inc., was published in the Federal Register of July 13, 1987 (52 FR 26186).

FDA amended the temporary permit in the Federal Register of April 8, 1988 (53 FR 11710), to permit the test product to be manufactured at one additional plant, Chugach Alaska Fisheries, Inc., Ocean Dock Rd., Cordova, AK 99574. The permit was further amended in the Federal Register of September 6, 1988 (53 FR 34354), to extend the expiration date of the permit to either the effective date of a final rule for any proposal to amend the standard of identity for canned Pacific salmon that may result from the National Food Processors Association's petition, submitted on

behalf of Bumble Bee Seafoods, Inc., and other salmon packers holding temporary permits, or 30 days after termination of such proposal.

Bumble Bee Seafoods, Inc., has requested that FDA amend its temporary permit to allow the test product to be manufactured at a third plant, Excursion Inlet Packing Plant, located in Excursion Inlet, AK 99850.

Accordingly, under the provisions of 21 CFR 130.17(f), FDA is amending the permit to add to the Excursion Inlet Packing Plant, Excursion Inlet, AK 99850. as a test-product manufacturing plant. All other conditions and terms of this permit remain the same.

Dated: October 6, 1989.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89-24671 Filed 10-18-89; 8:45 am]

BILLING CODE 4160-01-M

Advisory Committees: Notice of Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

Meetings: The following advisory committee meetings are announced:

Radiopharmaceutical Drugs Advisory Committee

Date, time, and place. November 17, 1989, 8:30 a.m., Conference Rms. G and H, Parklawn Bldg., Rockville, MD.

Type of meeting and contact person. Open public hearing, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 5 p.m.; David F. Hersey, Center for Drug Evaluation and Research (HFD-9), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4695.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational radioactive pharmaceuticals and contrast media for use in diagnostic and therapeutic procedures.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the committee contact person before November 3, 1989, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss: (1) New drug application (NDA) 19-928, Cardiotec® (technetium Tc 99m teboroxime) Injection, Squibb Diagnostics, for use in myocardial imaging; (2) status of gastric emptying petition, (3) NDA 19-785, Cardiolite® (technetium Tc 99m sestamibi) Injection, Dupont Pharmaceuticals, for use in myocardial imaging, (4) recent labeling changes in iodinated contrast media, and (5) proposed reconfiguration of the Radiopharmaceutical Drugs Advisory Committee.

Peripheral and Central Nervous System Advisory Committee

Date, time, and place. November 20, 1989, 9 a.m., Conference Rms. D and E, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, 9 a.m. to 10 a.m., unless public participation does not last that long; open committee discussion, 10 a.m. to 4:30 p.m.; Robbin M. Nighswander, Center for Drug Evaluation and Research (HFD-120). Food and Drug Administration, 5600 Fishers Land, Rockville, MD 20857, 301-443-3504.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational human drugs for use in the treatment of neurological disease.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the committee contact person before November 6, 1989, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss investigational new drug (IND) 17,213, Gamma Vinyl GABA (GVG), which is an experimental anticonvulsant that was previously reviewed by the committee at meetings on May 18, 1984, and October 18, 1985, in order to evaluate the occurrence of intramyelinic vacuoles in the brains of four animal species. At the May 18, 1984, meeting, the committee recommended that if brain vacuoles were detected in a then ongoing monkey toxicity study, the committee should be reconvened to discuss the findings.

The committee reconvened on October 18, 1985, to discuss the findings of an interim sacrifice of monkeys from that ongoing toxicity study. Brain vacuoles were detected in the sacrificed monkeys, and the committee recommended that clinical testing with new human subjects, previously unexposed to GVG, be suspended until such time as the sponsor could develop and validate a method to detect the earliest pathological changes in an animal, and demonstrate if these changes are reversible. The committee also recommended that patients currently on the drug be allowed to continue.

The sponsor has recently submitted a request to reinitiate clinical trails with GVG in the United States. In support of this request, data has been submitted from further animal studies and additional human clinical data obtained from foreign trials.

The committee will be asked to assess the propriety of reinitiating clinical studies in view of the additional data.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) and open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (Subpart C of 21 CFR Part 10) concerning the policy and procedures for electronic media coverage of FDA's

public administrative proceedings, including hearings before public advisory committees under 21 CFR Part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's descretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contract person the approximate time of discussion.

Details on the agenda, questions to be addressed by the committee, and a current list of committee members are available from the contact person before and after the meeting. Transcripts of the open portion of the meeting will be available from the Freedom of Information Office (HFI-35), Food and Drug Administration, Rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Docket Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fisheres Lane, Rockville, MD 20857, approximately, 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. App. I), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: October 12, 1989.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 89–24668 Filed 10–18–89; 8:45 am]

BILLING CODE 4160–01–M

Consumer Participation; Notice of Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following district consumer exchange meeting: Orlando District Office, chaired by Douglas D. Tolen, District Director. The topic to be discussed is proposed food labeling requirements.

DATES: Tuesday, November 28, 1989, 1:30 p.m. to 3:30 p.m.

ADDRESSES: Orange County Extension Service, Auditorium, 2350 East Michigan St., Orlando, FL 32806.

FOR FURTHER INFORMATION CONTACT: Lynne C. Isaacs, Consumer Affairs Officer, Food and Drug Administration, 7200 Lake Ellenor Dr., Suite 120, Orlando, FL 32809, 407–855–0900.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's district offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: October 12, 1989.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 89–24669 Filed 10–18–89; 8:45 am]

BILLING CODE 4160–01–M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following district consumer exchange meeting: Orlando District Office, chaired by Douglas D. Tolen, District Director. The topic to be discussed is proposed food labeling requirements.

DATE: Thursday, November 30, 1989, 10 a.m. to 12 p.m.

ADDRESS: Pinellas County Extension Service, Auditorium, 12175 125th Street North, Largo, FL 34644.

FOR FURTHER INFORMATION CONTACT: Lynne C. Isaacs, Consumer Affairs Officer, Food and Drug Administration, 7200 Lake Ellenor Drive, Suite 120, Orlandao, FL 32809, (407) 855–0900.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's district offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: October 12, 1989.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 89–24670 Filed 10–18–89; 8:45 am]

BILLING CODE 4160–01–M

Health Resources and Services Administration

Filing of Annual Report of Federal Advisory Committee

Notice is hereby given that pursuant to section 13 of Pub. L. 92–463, the Annual Report for the following Health Resources and Service Administration's Federal Advisory Committee has been filed with the Library of Congress.

National Advisory Council on Health Professions Education

Copies are available to the public for inspection at the Library of Congress Newspaper and Current Periodical Reading Room, Room 1026, Thomas Jefferson Building, Second Street and Independence Avenue SE., Washington, DC, or weekdays between 9 a.m. and 4:30 p.m. at the Department of Health and Human Services, Department Library, HHS North Building, Room G–400, 330 Independence Avenue SW., Washington, DC, telephone (202) 245–6791. Copies may be obtained from: Mr. James M. Hoeven, Executive Secretary, National Advisory Council on Health Professions Education, Room 8C–22, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–6880.

Dated: October 13, 1989.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 89–24667 Filed 10–18–89; 8:45 am]

BILLING CODE 4160–10–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N–89–2036; FR–2675–02–C]

Public Housing Drug Elimination Program

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Extension of time to file applications.

SUMMARY: On September 18, 1989, HUD published a Notice of Fund Availability soliciting applications for funding under the Public Housing Drug Elimination Program. Today's notice extends the application deadline to December 1, 1989.

FOR FURTHER INFORMATION CONTACT: Howard Mortman, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 4110, Washington, DC 20410, telephone (202) 755–3611. (This is not a toll-free number).

APPLICATION DEADLINE: Applications must be received by 5:15 p.m., Eastern Daylight Time, on December 1, 1989, at the Department of Housing and Urban Development, Room 4110, 451 Seventh Street SW., Washington, DC 20410, Attention: Howard Mortman, Office of Public and Indian Housing. A copy of the application materials should be simultaneously forwarded to the HUD Field Office with jurisdiction over the Public Housing Agency (PHA), Attention: Chief Assisted Housing Branch; or for Indian Housing Authorities (IHA), Attention: Director, Indian Programs. The Department will not consider any application that has been transmitted by facsimile ("FAX") machine.

SUPPLEMENTARY INFORMATION: On September 18, 1989 (54 FR 38496), HUD announced in the Federal Register the availability of $8,200,000 in grant funds appropriated by the Dire Emergency Supplemental Appropriations Act (Pub. L. 101–45, approved June 30, 1989). These funds are to be used in a manner consistent with the requirements of the Public Housing Drug Elimination Act of 1988 to provide grants to PHAs and IHAs. To receive funding under this program, PHAs and IHAs are required to develop a plan for addressing drug-related crime, and to indicate how assisted activities will further the plan. The notice stated that applications were due by November 2, 1989. Today's notice extends the deadline to December 1, 1989. The Department has determined that this extension is needed to allow eligible applicants an opportunity to submit quality applications.

Authority: Sec. 5127, Public Housing Drug Elimination Act of 1988 (Chapter 2, Subtitle C, Title V, Anti-Drug Abuse Act of 1988 (Pub. L. 100–690, approved November 18, 1988); section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: October 13, 1989.

Thomas Sherman,

Acting General Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. 89–24709 Filed 10–18–89; 8:45 am]

BILLING CODE 4210–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–964–4230–15; F–14943–B]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provision of section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(f), will be issued to Tanacross, Inc. for approximately 11,760 acres. The lands involved are in the vicinity of Tok, Alaska.

Certain Lands Within:

T. 18 N., R. 13 E., Copper River Meridian, Alaska

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the FAIRBANKS DAILY NEWS-MINER Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until November 20, 1989 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

Marcia K. Walker,

Chief, Branch of Doyon Adjudication.

[FR Doc. 89–24662 Filed 10–18–89; 8:45 am]

BILLING CODE 4310–JA–M

[NV–930–08–4333–11; NV5–89–34]

Nevada; Temporary Closure of Certain Public Lands in the Las Vegas District for Management of the 1989 Gold Coast 300 Off-Highway Vehicle (OHV) Race

ACTION: Temporary closure of certain Public Lands in Clark County, Nevada, on and adjacent to the 1989 GOLD COAST 300 race course on October 14, 1989. Access will be limited to race officials, entrants, law-enforcement and emergency personnel, licensed permittee(s) and right-of-way grantees.

SUPPLEMENTARY INFORMATION: Certain public lands in the Las Vegas District, Clark County, Nevada will be temporarily closed to public access from 0001 hours, October 14, 1989, to 2400 hours, October 14, 1989, to protect persons, property, and public land resources on and adjacent to the 1989 GOLD COAST 300 OHV race course. Spectators are restricted to the start/finish, and at authorized pit areas. These temporary closures and restrictions are made pursuant to 43 CFR part 8364. The public lands to be closed or restricted are those lands adjacent to and including roads, trails and washes identified as the 1989 GOLD COAST 300 OHV race course.

The following public lands restricted or closed are described as: the Sloan area. T23S., R60E., all of section 36 and in T23S., R61E., all of sections 31 and 32. The Hidden Valley area, T24S., R60E., all of sections 1, 11, 12, 14, 15, 21, 22, 25, 26, 28, 29, 31, 32, 35 and 36; and in T24S., R61E., all of sections 5, 6, 7, 8, 17, 18, 20, 29, 30, and 31. The Jean, Nevada and the Jean Dry Lake areas, T25S., R59E., all of sections 34, 35 and 36; and in T25S., R60E., all of sections 1, 5, 6, 7, 8, 12, 13, 14, 17, 20, 21, 24, 28 and 33. The McCullough Mountain area, T25S., R61E., all of sections 14, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 32 and 33; and in T25S., R62E., all of section 19. The Roach Dry Lake area, T26S., R59E., all of sections 1, 2, 3, 4, 10, 11, 12, 13, 14, 23 and 24; and in T26S., R60E., all of sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11.

The above legal land descriptions are for public lands within Clark County, Nevada. A map showing specific areas closed to public access is available from the following BLM office: the Las Vegas District Office, 4765 Vegas Drive, P.O. Box 26569, Las Vegas, Nevada 89126, (702) 646–8800. Any person who fails to comply with this closure order issued

under 43 CFR Part 8364 may be subject to the penalties provided in 43 CFR 8360.7.

Dated: October 7, 1989.

Ben F. Collins,

District Manager, Las Vegas District.

[FR Doc. 89-24681 Filed 10-18-89; 8:45 am]

BILLING CODE 4310-NC-M

[ID-010-00-4130-09]

Intent To Prepare EIS for Proposed Mine, ID

AGENCY: Boise District, Bureau of Land Management, Interior.

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS) and invitation to participate in issue identification (scoping).

SUMMARY: Pursuant to section 102(2)c of the National Environmental Policy Act of 1969 (NEPA), as amended, the Department of the Interior, Bureau of Land Management (BLM) intends to prepare an environmental impact statement (EIS) on a plan of operations for a proposed open-pit gold and silver mine in Owyhee County, Idaho. Action on that plan of operations is pursuant to the authority under 43 CFR 3809.

DATES: Any public meetings pursuant to 40 CFR part 1501.7 (NEPA Regulations) to help identify and determine the issues to be addressed and the scope of the EIS will be announced in the local media and through our mailing list. Dates and locations for meetings have not yet been determined.

ADDRESS: Comments should be sent to: Owyhee Resource Area Manager, Bureau of Land Management, 3948 Development Avenue, Boise, ID 83705.

FOR FURTHER INFORMATION CONTACT: Owyhee Resource Area Manager, Bureau of Land Management, 3948 Development Avenue, Boise, ID 83705. Telephone: (208) 334-1582.

SUPPLEMENTARY INFORMATION: NERCO DeLamar Company has submitted an application for approval of a plan of operations for the Stone Cabin Mine, a proposed open-pit gold and silver mine located partially on BLM adminstrated lands about 50 miles southwest of Boise, Idaho. Major components of the NERCO proposal include: establishing open mine pits near the top of Florida Mountain, depositing waste rock at two sites between the Stone Cabin Mine and the existing DeLamar Silver Mine, hauling high grade ore over a newly constructed five-mile long haul road to the DeLamar Silver Mine for milling, increasing milling capacity at the DeLamar Silver Mine to accommodate high grade ore from the Stone Cabin Mine, increasing the capacity of the tailings pond at the DeLamar Silver Mine to accommodate tailings from the Stone Cabin Mine, processing low grade ore at a newly constructed heap leach site between the Stone Cabin Mine and the DeLamar Silver Mine, constructing ancillary facilities to support the Stone Cabin Mine, and reclamation of the Stone Cabin Mine site following mining activities which are projected to last approximately 10 years.

Possible alternatives under consideration include: (1) Approval of the plan of operations as submitted by NERCO DeLamar Company, (2) approval of the plan of operations (submitted by NERCO DeLamar Company) with stipulations identified by BLM through the environmental review process, (3) approval of an alternative plan of operations (as identified through the environmental review process), and (4) not conducting mining operations at the Stone Cabin Mine site ("No Action" alternative or rejection of application). Potential environmental issues to be addressed in the EIS include, but are not limited to: Impacts on ground and surface water quality and beneficial uses, impacts on cultural resources, impacts on wildlife (including threatened and endangered and sensitive species, migratory birds, and aquatic species), and impacts on recreation and access.

The EIS will be prepared under a third party contract pursuant to the CEQ regulations for implementing NEPA (40 CFR part 1505.6(c). The Boise District, BLM will assemble an interdisciplinary team to guide, assist and evaluate that effort.

Dated: October 5, 1989.

J. David Brunner,

District Manager.

[FR Doc. 89-24679 Filed 10-18-89; 8:45 am]

BILLING CODE 4310-GG-M

[OR-080-00-412-14: GPO-022; OR 45383]

Realty Action; Proposed Direct Sale

October 13, 1989.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action.

The following described public land has been examined and determined to be suitable for transfer out of Federal ownership by direct sale under the authority of sections 203 and 209 of the Federal Land Policy and Management Act of 1976, as amended (90 Stat. 2750; 43 U.S.C. 1713 and 90 Stat. 2757; 43 U.S.C. 1719), at not less than the appraised fair market value:

Willamette Meridian, Oregon

Lot 8, Block 45, Agate Beach No. 2 (located within Sec. 29, T. 10 S., R. 11 W.)

Containing 0.12 acres in Lincoln County.

The parcel will not be offered for sale until at least 60 days after publication of this notice in the **Federal Register.** The fair market value of the parcel has been determined to be $2,200.

The above-described land is hereby segregated from appropriation under the public land laws, including the mining laws, but not from sale under the above-cited statute, for 270 days or until title transfer is completed or the segregation is terminated by publication in the **Federal Register,** whichever occurs first.

The parcel was acquired recently in order to realign the BLM Yaquina Head Road and a portion of NW Lighthouse Drive (City of Newport). An easement interest was all that was needed but the landowner requested the United States purchase the lot in its entirety. Subsequently, the City of Newport was issued a right-of-way for the identical area of the proposed easement (OR 45213). The parcel is in a single-family residential zone but is not buildable because of its steep slope and lack of nearby sewer facilities. It is not needed for any Federal program and is not suitable for management by another Federal department or agency. The proposed sale will merge the parcel with an adjoining ownership, creating a more useable parcel. Use of direct sale is consistent with the Westside Management Framework Plan and the public interest will be served by offering this land for sale.

The parcel is being offered to John R. Altree using direct sale procedures authorized under 43 CFR 2711.3-3.

The terms, conditions, and reservations applicable to the sale are as follows:

1. Mr. Altree will be required to submit proof that he is a U.S. citizen and is 18 years of age or more. He will also be required to submit a deposit of either cash, bank draft, money order, or any combination thereof for not less than 20 percent of the appraised value. The remainder of the full appraised price must be submitted prior to the expiration of 180 days from the date of the sale. Failure to submit the remainder of the full appraised prive shall result in the cancellation of the sale and the forfeiture of the deposit.

2. The mineral interests being offered for conveyance have no known mineral value. A bid will also constitute an application for conveyance of the mineral estate, in accordance with section 209 of the Federal Land Policy and Management Act. Mr. Altree must include with his bid deposit a nonrefundable $50.00 filing fee for the conveyance of the mineral estate.

3. Rights-of-way for ditches or canals will be reserved to the United States under 43 U.S.C. 945.

4. The deed will be issued subject to Right-of-Way OR 45213 and all valid existing rights and reservations of record.

Detailed information concerning the sale is available for review at the Salem District Office, address below.

For a period of 45 days from the date of publication of this notice in the Federal Register, interested parties may submit comments to the Yamhill Area Manager, Salem District Office, 1717 Fabry Road SE, Salem, OR 97306. Any adverse comments will be reviewed by the Salem District Manager, who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, this realty action will become the final determination of the Department of the Interior.

Richard C. Prather,

Yamhill Area Manager.

[FR Doc. 89-24687 Filed 10-18-89; 8:45 am]

BILLING CODE 4310-33-M

[AA-340-00-4333-11]

Use Authorizations; Special Recreation Permits, Other Than on Developed Recreation Sites; Specific Adjustment in Fees

AGENCY: Bureau of Land Management, Interior.

ACTION: Public notice—specific fee adjustments for special recreation permits

SUMMARY: The Bureau of Land Management (BLM) hereby gives notice it is adjusting certain special recreation permit fees for various recreation activities on the National Public Lands and related waters administered by the BLM. Along with the U.S. Forest Service (FS), BLM is adjusting the minimum annual fee for all special recreation permittees.

Effective with March 1, 1990 fee adjustments will be made in this manner automatically every 3 years. 1984 is used as a base year for the 1990 increase. Fees will be rounded to the nearest $10.00. This notice establishes the special recreation permit minimum annual fee at $60 and the site reservation fee at $120 until February 28, 1993. Multiyear and annual permits issued prior to March 1, 1990 will be adjusted accordingly. The intended effect is to ensure fees cover administrative costs of permit issuance and approach free market value in certain cases.

These fees will be calculated and adjusted based on the change in the Implicit Price Deflator. The Implicit Price Deflator Index (IPDI) is published every February as a part of the "Economic Report of the President" to Congress. The IPDI is also cited monthly in the "Survey of Current Business," a periodical available in most regional, university, and local government depository libraries.

EFFECTIVE DATE: March 1, 1990.

ADDRESS: Director (340), Room 3360, Main Interior Building, Bureau of Land Management, 1800 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Gary G. Marsh, Recreation Resources Branch (202) 343-9353.

SUPPLEMENTARY INFORMATION: In 1984 (49 FR 5300 and 49 FR 34332), the Bureau of Land Management announced its final regulations and policy concerning special recreation permits for individuals or organizations conducting commercial, competitive, and other uses.

BLM established the minimum annual special recreation permit fee at $50 and site reservation fee of $100 to ensure consistency with the FS for commercial outfitters who use adjacent lands and waters. Since 1984, inflation has devalued these fixed free amounts. Therefore it is necessary to adjust the minimum and site reservation fees.

On September 9, 1987, the BLM incorporated its commercial fee and permit policy in the 8372 Manual and Handbook. As a part of this policy, the BLM established a new system for determining the annual administrative cost to issue permits and provide a fair return to the government for the privilege of conducting commercial recreation activities on the Public Lands and related waters. The fee system bases fees on either a minimum annual fee or 3% of the commercial permittee's gross revenue (allowing certain discounts for lodging and transportation), whichever is greater.

Office of Management and Budget Circular A-25, specifies that, "Where federally owned resources or property are leased or sold, a fair market value should be obtained." Fees based on revenue and charges to the customer are self-adjusting.

Because of many areas of adjacent jurisdiction, the BLM and FS coordinate their policies for managing outfitting and guiding and other activities of its recreation service partners. The FS published their proposal at 54 FR 11982, dated March 23, 1989 and BLM published the same proposal at 54 FR 22786, dated May 26, 1989.

During the public comment period from May 26 to July 7, 1989, the BLM received 2 comments, one letter and one phone call. The letter supported the proposed fee adjustment procedure as a reasonable pursuit of fair market value return. In addition, as a part of this letter, the suggestion was made that due to adjacent State lands, BLM should coordinate their policies with the State. Since BLM does coordinate with State and local governments through their resource management planning process, State Comprehensive Outdoor Recreation Plans, and comparability in establishing developed recreation site fees, no change was made in this proposal.

The phone inquiry was from a representative of a national outfitter organization inquiring about the details and coordination of the proposal prior to implementation. It was explained to this commentor that the proposal was discussed with a number of commercial outfitter organizations and had received their initial support for these groups. Additionally, it was clarified that this fee schedule only applies to the permittee if the minimum annual fee is less than 3% of the gross receipts. No additional concerns were voiced, therefore no change has been made in the proposal.

These fee adjustments hereby amend BLM 8372 Manual and Handbook H-8372-1, Special Recreation Permits For Commercial Use.

Dated: October 12, 1989.

Dean Stepanek,

Deputy Director.

[FR Doc. 89-24659 Filed 10-18-89; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Receipt of Applications for Permits

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

Applicant: St. Louis Zoological Park, St. Louis, MO, PRT 742177

The applicant requests a permit to import one captive-born banteng (*Bos javanicus*) from the Zoo Berlin, Berlin, West Germany for the purpose of captive propagation.

Applicant: William Gruenerwald, Colorado Springs, CO, PRT 741920

The applicant requests a permit to import one captive-born female Somali wild ass (*Equus africanus somalicus*) from the Zoologischer Garten Basel, Switzerland for the purpose of captive propagation.

Applicant: Donnovan L. Fox, Jr., Bolivar, MO, PRT 742176

The applicant requests a permit to purchase in interstate commerce one captive-born clouded leopard (*Neofelis nebulosa*) and a captive-born pair of leopards (*Panthera pardus*) from Mr. Thomas Atchison, Hatten, Alabama for the purpose of captive propagation.

Applicant: Phoenix Zoo, Phoenix, AZ, PRT 742370

The applicant requests a permit to import one captive born female cheetah (*Acinonyx jubatus*) from Mr. Desmond Veraday, Cheetah Sanctuary, Middleburg, Transvaal Province, Republic of South Africa, for captive breeding purposes and display. The cheetah was born in captivity at Mr. Veraday's facility.

Applicant: Rio Grande Zoological Park, Albuquerque, NM, PRT 742372

The applicant requests a permit to import two male and three female cheetahs (*Acinonyx jubatus*) from Mr. Desmond Veraday, Cheetah Sanctuary, Middleburg, Transvaal Province, Republic of South Africa, for captive breeding purposes and display. The cheetahs were born in captivity at Mr. Veraday's facility.

Applicant: Lincoln Park Zoological Gardens, Chicago, IL, PRT 742371

The applicant requests a permit to import four captive born female cheetahs (*Acinonyx jubatus*) from Mr. Desmond Veraday, Cheetah Sanctuary, Middleburg, Transvaal Province, Republic of South Africa, for captive breeding purposes and display. The cheetahs were born in captivity at Mr. Veraday's facility.

Applicant: Louisville Zoological Garden, Louisville, KY, PRT 742373

The applicant requests a permit to import one pair of captive-born cheetahs (*Acinonyx jubatus*) from Mr. Desmond Veraday, Cheetah Sanctuary, Middleburg, Transvaal Province, Republic of South Africa, for captive breeding purposes and display. The cheetahs were born in captivity at Mr. Veraday's facility.

Applicant: John Otis Richards, Savannah, GA, PRT 742385

The applicant requests a permit to purchase one pair of captive hatched red-capped parrots (*Pionopsitta pileata*) from Mr. Tom Ireland, Tuwana Aviary, Lake Worth, Florida, for captive breeding purposes.

Applicant: Warren B. Katz, Wahiawa, HI, PRT 740482

The applicant requests a permit to import the sport-hunted trophy of a cheetah (*Acinonyx jubatus*) from the Republic of South Africa for the purpose of enhancement of survival of the species.

Applicant: George Miksch Sutton Avian Research Center, Bartlesville, OK, PRT 683271

The applicant wishes to amend his current permit which authorizes take from nest in Florida of up to 100 bald eagle eggs per year for laboratory incubation and return to the wild. The proposed amendment would authorize the take of up to 25 eaglets each year, in lieu of the same number of eggs, for the purposes of determining whether the adult eagles will relay eggs as readily as they do when eggs are taken. The collected eaglets would be returned to the wild.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) Room 432, 4401 N. Fairfax Dr., Arlington VA 22203, or by writing to the Director, U.S. Office of Management Authority, P.O. Box 3507, Arlington, Virginia 22203–3507.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Dated: October 16, 1989.

Susan Lawrence,

Acting Chief, Branch of Permits, U.S. Office of Management Authority.

[FR Doc. 89–24703 Filed 10–18–89; 8:45 am]

BILLING CODE 4310–55–M

Geological Survey

Application Notice Establishing the Closing Date for Transmittal of Applications Under the National Earthquake Hazards Reduction Program (NEHRP) for Fiscal Year (FY) 1991.

Applications are invited for research projects under the NEHRP.

Authority for this program is contained in the Earthquake Hazards Reduction Act of 1977, Public Law 95–124. (42 U.S.C. 7701, et. seq.)

The purpose of this program is to support research in earthquake hazards and earthquake prediction to provide earth-science data and information essential to mitigate earthquake losses.

Applications may be submitted by educational institutions, private firms, priviate foundations, individuals, and agencies of State or local governments.

Closing Date for Transmittal of Applications: Applications must be received on or before January 25, 1990.

Program Information: This program supports research related to the following general areas of national interest: (1) Current tectonic and earthquake potential studies—analysis of regional seismic network data, identification of source zone characteristics, and earthquake potential estimates; (2) earthquake prediction research—prediction methodology and evaluation, focused earthquake prediction experiments, and theoretical, laboratory, and fault zone studies; and (3) regional earthquake hazards assessments—geologic and seismic hazard evaluation and synthesis, loss estimation modeling, and implementation.

Application Forms: The program announcement is expected to be available on or about November 1, 1989. You may obtain a copy of announcement 7622 by writing to Karen Phillips, U.S. Geological Survey, Office of Procurement and Contracts—MS 205C, 12201 Sunrise Valley Drive, Reston, VA 22092.

Organizations that applied for a FY 1989 award and organizations that requested to be retained on the mailing list since the last announcement, will be mailed a copy of the program announcement.

Further Information: For further information contact Dr. Elaine Padovani, Deputy Chief, External Research Program, Office of Earthquakes, Volcanoes, and Engineering—MS 905, U.S. Geological Survey, 12201 Sunrise Valley Drive, Reston, VA 22092. Telephone: 703–648–6722.

Dated: October 5, 1989.

(Catalog of Federal Domestic Assistance Number 15.807)

Jack J. Stassi,

Assistant Director for Administration.

[FR Doc. 89–24686 Filed 10–18–89; 8:45 am]

BILLING CODE 4310–31–M

Office of Surface Mining Reclamation and Enforcement

Flat Fork Watershed, TN, Lands Unsuitable for Surface Mining and Reclamation Operations; Availability of Draft Petition Evaluation Document and Draft Environmental Impact Statement; Request for Comment and Hearing

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Notice of availability of the draft combined petition evaluation document/environmental impact statement (PED/EIS) for the Flat Fork watershed in Morgan County, Tennessee, lands unsuitable for surface coal mining and reclamation operations petition. Notice of public hearing to receive comments on Flat Fork Creek draft PED/EIS.

SUMMARY: OSM has prepared a draft combined PED/EIS addressing the petition to designate certain lands within the Flat Fork watershed as unsuitable for surface coal mining and reclamation operations. The document evaluates the allegations raised in the petition and considers the impacts of alternative unsuitability decisions for the Flat Fork watershed on the human environment, the economy, and the supply of coal. Copies of the PED/EIS are being made available today. Public comment on the PED/EIS is solicited and a public hearing will be held as described below.

DATES: Written comments on the PED/EIS must be received at the address given below under "**ADDRESSES**" on or before December 11, 1989, until 5 p.m. local time. Comments may also be presented at a public hearing starting at 7 p.m. on November 16, 1989, at the address given below.

ADDRESSES: Public hearing on the draft PED/EIS will be held at the Central Elementary School, Wartburg, Tennessee, on November 16, 1989, beginning at 7 p.m. local time.

Written comments on the draft PED/EIS must be mailed or hand delivered to the Office of Surface Mining Reclamation and Enforcement, 530 Gay Street SW., Suite 500, Knoxville, Tennessee 37902, Attn Willis L. Gainer. All comments will be on file and available for inspection at the same address.

FOR FURTHER INFORMATION CONTACT: Willis L. Gainer, Office of Surface Mining Reclamation and Enforcement (telephone 615/673–4348 or FTS 854–4348) at the address listed above.

PED/EIS AVAILABILITY: Copies of the draft PED/DIS are available for inspection at the Morgan County Courthouse and at the OSM office listed above. In addition, copies of the document may be obtained, at the above-listed office.

SUPPLEMENTARY INFORMATION: The public hearing on the draft PED/EIS has been scheduled for the date and address listed above. Anyone who wishes to comment will be given the opporutnity to do so, but initial comments will be limited to 10 minutes of oral testimony. Time limits may be extended at the discretion of the presiding officials. Persons wishing to present testimony are encouraged to contact OSM at the address given above. OSM would appreciate receiving a written copy of the testimony four days prior to the public hearing.

The hearing will be transcribed. Filing a written statement at the time of giving oral testimony is encouraged as this will facilitate the job of the court reporter. A transcript of the meeting will be available at a nominal fee approximately 7 days after the meeting. The public hearing will commence at the times stated above and will continue until all persons scheduled to speak have been heard. Persons in the audience not scheduled to speak initially and who wish to do so will be heard at the end of the scheduled speakers.

OSM encourages the public to comment on the content of the draft PED/EIS. In particular, OSM solicits comments which identify errors, omissions, or alternatives not yet considered. Whenever possible, public comments should be supported by technical data or other source material. All comments from the public on the draft PED/EIS will be considered during preparation of the final document.

Dated: October 10, 1989.

Brent Wahlquist,

Assistant Director, Program Policy.

[FR Doc. 89–24665 Filed 10–18–89; 8:45 am]

BILLING CODE 4310–05–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–83]

Certain Adjustable Window Shades; Commission Decision to Modify Exclusion Order

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: In view of the U.S. Court of Appeals for the Federal Circuit's (Federal Circuit) affirmance of a U.S. district court decision holding claims 1, 2, and 7 of U.S. Letters Patent 4,006,770 (the '770 patent) invalid, notice is hereby given that the U.S. International Trade Commission has determined to modify the exclusion order issued May 29, 1981, in the above-captioned investigation. Window shades and components thereof that infringe claims 1, 2, and 7 of the '770 patent are no longer excluded from entry into the United States. The modified order excludes only window shades and components thereof that infringe claims 8 and 9 of the '770 patent.

ADDRESS: Copies of the Commission's Order, its opinion, and all other nonconfidential documents filed in connection with this proceeding are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–252–1000.

FOR FURTHER INFORMATION CONTACT: Jean Jackson, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–252–1104. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–252–1810.

SUPPLEMENTARY INFORMATION: In 1985, a federal district court determined that some of the claims of the patent underlying the exclusion order issued in the investigation were invalid, *Newell Companies, Inc.* v. *Kenney Manufacturing Co.*, 606 F. Supp. 1282 (D.R.I. 1985). In view of that decision, the Commission instituted a proceeding pursuant to Commission rule 211.57 to determine whether the *Window Shades* exclusion order should be modified or vacated. Notice of the proceeding was published in the **Federal Register** on October 9, 1985 (50 FR 41229). Interested parties were invited to file submissions. Submissions were received from the patent holder, Newell Window Furnishing Company, and an importer, the McCrory Corporation. On May 1, 1986, the Commission published its decision to maintain the exclusion order pending the outcome of the appeal of the district court decision to the Federal Circuit. 51 FR 16236. On December 29, 1988, the Federal Circuit issued its decision affirming the lower court's determination that some claims of the patent at issue were invalid. *Newell Companies Inc.* v. *Kenney Manufacturing Company*, 864 F.2d 757 (Fed. Cir. 1988).

This action is taken under the authority of section 337(k)(1) of the Tariff Act of 1930 (19 U.S.C. 1337(k)) and § 211.57 of the Commission's interim rules (53 FR 33076 (Aug. 29, 1988)).

By order of the Commission.

Issued: October 11, 1989.

Kenneth R. Mason,

Secretary.

[FR Doc. 89–24626; Filed 10–18–89; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337-TA-285]

Certain Chemiluminescent Compositions and Components Thereof and Methods of Using, and Products Incorporating, the Same; Modification of General Exclusion Order

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is given that, pursuant to Commission interim rule 210.61 (53 FR 33073, Aug. 29, 1988), the Commission has modified paragraph 4 of the general exclusion order issued on August 17, 1989, in the above-captioned investigation.

ADDRESSES: Copies of the Commission's order modifying the general exclusion order are available for inspection during official business hours (8:45 am to 5:15 pm) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202)–252–1000. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Commission's TDD terminal on (202)–252–1810.

FOR FURTHER INFORMATION CONTACT: William T. Kane, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202)–252–1116.

SUPPLEMENTARY INFORMATION: The general exclusion order issued in this investigation provides that articles that infringe certain specified patent claims, and/or packaging and related literature that infringe two registered trademarks, are excluded from entry. (*See* 54 F.R. 35087–8, August 23, 1989.) On August 31, 1989, complainant American Cyanamid Company filed a petition for reconsideration requesting that the Commission modify paragraph 4 of the general exclusion order. Paragraph 4 provides an exception to the exclusion of products bearing complainant's trademark for "Cyalume," Registration Nos. 925,341, or 1,141,455.

The authority for this action is conferred by section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and by Commission interim rule 210.61 (53 FR 33073, Aug. 29, 1988).

By order of the Commission.
Issued: October 11, 1989.

Kenneth R. Mason,
Secretary.

[FR Doc. 89–24627 Filed 10–18–89; 8:45 am]
BILLING CODE 7020–02–M

[Inv. No. 337-TA-289]

Certain Concealed Cabinet Hinges and Mounting Plates; Extension of Deadline for Determining Whether to Review an Initial Determination

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to extend until November 15, 1989, the deadline by which it must decide whether to review an initial determination (ID) (Order No. 118) terminating the above-captioned investigation for abuse of the Commission's process.

FOR FURTHER INFORMATION CONTACT: Calvin H. Cobb, II, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436; telephone 202–252–1103.

Hearing impaired individuals are advised that information about this matter can be obtained by contacting the Commission's TDD terminal, 202–252–1810.

SUPPLEMENTARY INFORMATION: Julius Blum, Inc. (Blum), a U.S. assembler of certain patented concealed hinges and mounting plates, filed a complaint under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) alleging direct, contributory, and induced infringement of certain claims of three U.S. patents by 14 proposed respondents. The Commission instituted an investigation of Blum's complaint and issued a notice of investigation that was published in the **Federal Register** on December 28, 1988 (53 FR 52515).

On Septemer 28, 1989, the administrative law judge (ALJ) presiding in the investigation issued an ID (Order No. 118) terminating the investigation for abuse of Commission process pursuant to Commission interim rules 210.5(b)(4) and 210.51(a). Order No. 118 was served on September 29, 1989. Termination of an investigation in accordance with Commission interim rule 210.51(a) constitutes an ID issued under Commission interim rule 210.53(c) and, unless the Commission orders otherwise, the Commission must decide whether to review such an ID within 30 days from service of the ID, or in this case by October 31, 1989.

Also on September 28, 1989, the ALJ issued a second ID in the investigation, finding no violation of section 337 (the "Merits ID"). The Merits ID was also served on September 29, 1989. The Merits ID constitutes an ID concerning permanent relief under Commission interim rule 210.53(a). Pursuant to Commission interim rule 210.54(b), the Commission must decide whether to review the Merits ID within 45 days of service, or in this case, by November 15, 1989.

The Commission has extended the deadline for deciding whether to review Order No. 118 to coincide with the deadline for deciding whether to review the Merits ID. The Commission will therefore decide whether to review both Order No. 118 and the Merits ID within 45 days of service, *i.e.*, by November 15, 1989.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and § 210.54 of the Commission's Interim Rules of Practice and Procedure (53 FR 33034, 33071 (Aug. 29, 1988)).

By order of the Commission.
Issued: October 12, 1989.

Kenneth R. Mason,
Secretary.

[FR Doc. 89–24628 Filed 10–18–89; 8:45 am]
BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

Forms Under Review by Office of Management and Budget

The following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) is being submitted to the Office of Management and Budget for review and approval. Copies of the forms and supporting documents may be obtained from the Agency Clearance Officer, Ray Houser (202) 275–6723. Comments regarding this information collection should be addressed to Ray Houser, Interstate Commerce Commission, Room 1319, 12th and Constitution Ave., NW., Washington, DC 20423 and to Edward Clarke, Office of Management and Budget, Room 3228 NEOB, Washington, DC 20503, (202) 395–7340.

Type of Clearance: Extension
Bureau/Office: Office of Compliance and Consumer Assistance
Title of Form: Notice of Intent to perform Interstate Transportation for certain nonmembers
OMB Form No.: 3120–0005
Agency Form No.: OCP–102
Frequency: Annually
Respondents: Agricultural Cooperatives
No. of Respondents: 50
Total Burden Hrs.: 25 (average 30 minutes per response)

Brief Description of the need & proposed use: Agricultural Cooperatives must file this form if they wish to perform transportation for nonmembers without a certificate or permit from the ICC.

Type of Clearance: Extension
Bureau/Office: Office of Compliance and Consumer Assistance
Title of Form: Designation of Agents—Motor Carriers and Brokers
OMB Form No.: 3120–0008
Agency Form No.: BOC–3
Frequency: On occasion
Respondents: Motor Carrier Agents and Brokers
No. of Respondents: 12,000
Total Burden Hrs.: 3,000 (Average 15 minutes per response)
Brief Description of the need & proposed use: Filing on this form is required to satisfy statutory requirements that motor carriers and property brokers maintain on file with commission agents upon whom process issued in court proceedings may be served.

Type of Clearance: Extension
Bureau/Office: Bureau of Accounts
Title of Form: Condensed Balance Sheet
OMB Form No.: 3120–0063
Agency Form No.: CBS
Frequency: Quarterly
Respondents: Class I Railroads
No. of Respondents: 17
Total Burden Hrs.: 408 (Average 6 Hrs. per response)
Brief Description of the need & proposed use: Reports are used by the Commission to assess industry growth, sudden changes in carrier financial stability and identify changes and trends that may effect the National Transportation System.

Noreta R. McGee,

Secretary.

[FR Doc. 89–24578 Filed 10–18–89; 8:45 am]

BILLING CODE 7035–01–M

Motor Passenger Carrier or Water Carrier Finance Applications

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties of, or acquire control of motor passenger carriers or water carriers pursuant to 49 U.S.C. 11343–11344. The applications are governed by 49 CFR part 1182, as revised in *Pur., Merger & Cont.-Motor Passenger & Water Carriers,* 5 I.C.C.2d 786 (1989). The findings for these applications are set forth at 49 CFR 1182.18. Persons wishing to oppose an application must follow the rules under 49 CFR 1182, subpart B. If no one timely opposes the application, this publication automatically will become the final action of the Commission.

MC–F–19516, filed September 26, 1989. Charles S. Lenzner and John E. Lenzner—Continuance in Control—Lenzner Coach Lines, Inc., and Airlines Acquisition Co., Inc. Applicant's representative: William A. Gray, 2310 Grant Building, Pittsburgh, PA 15219. Applicants Charles S. Lenzner and John E. Lenzner (the Lenzners) are officers, directors, and 50 percent shareholders: (1) of Lenzner Coach Lines, Inc., d/b/a North Boroughs Cab (LCL) (MC–142120), a common and contract carrier of passengers; and (2) of Airline Acquisition Co., Inc., d/b/a Airlines Transportation Company (Airlines), a new carrier seeking its initial common and contract carrier authority to transport passengers, in charter and special operations, between points in the United States (except Hawaii) (MC–223575). The business address of both LCL and Airlines is R.D. #2, Nicholson Road, Sewickley, PA 15143. Upon issuance of authority to Airlines, the Lenzners will be in control of two carriers.

Decided: October 12, 1989.

By the Commission, the Motor Carrier Board.

Noreta R. McGee,

Secretary.

[FR Doc. 89–24579 Filed 10–18–89; 8:45 am]

BILLING CODE 7035–01–M–2–KA

[Directed Service Order No. 1507]

St. Louis Southwestern Railway Co.—Directed Service—Chicago, Missouri and Western Railway Co., Debtor (Daniel R. Murry, Trustee) [1]

AGENCY: Interstate Commerce Commission.
ACTION: Directed service order.

SUMMARY: Pursuant to 49 U.S.C. 11125, the Commission is authorizing the St. Louis Southwestern Railway Company (SSW) to operate as a "Directed Rail Carrier" (DRC)—uncompensated and without Federal subsidy under 49 U.S.C. 11125(b)(5)—over the Chicage to St. Louis lines of the Chicago, Missouri and Western Railway Company (CMW) for 60 days.

This unsubsidized and uncompensated directed service order is based on the representation by the CMW Trustee that the railroad's cash position does not allow it to continue operations over its entire system, and that there will be a cessation of service by CMW over a portion of its system. To assure continued service to shippers that would be affected by the discontinuance of operations, the Commission is authorizing the SSW to provide interim service between Chicago and St. Louis over the CMW's lines. *See* 49 U.S.C. 11125(a)(1) and (3).

DATES: Effective Date: Directed Service Order No. 1507 shall be effective on October 16, 1989, and authorized rail service shall commence upon cessation of service operations by CMW and its notification that it has done so to the Commission and the SSW. SSW shall immediately notify the Commission and all parties to this proceeding of the date it commences operations under this authority.

Expiration Date: Unless otherwise modified by the Commission, Directed Service Order No. 1507 will expire at 11:59 p.m., on December 15, 1989.

FOR FURTHER INFORMATION CONTACT: Melvin F. Clemens, Jr., (202) 275–1559; or Joseph H. Dettmar, (202) 275–7245. (CTDD for hearing impaired: (202) 275–1721).

SUPPLEMENTARY INFORMATION: The Chicago, Missouri and Western Railway Company (CMW) has been in bankruptcy since April 1, 1988, in the United States Bankruptcy Court for the Northern District of Illinois, Eastern Division, (Bankruptcy Filing No. 88 B 05141). The carrier's rail system extends from Kansas City, MO on the west to Chicago, IL on the east and northward from East St. Louis, IL to Chicage, IL. CMW transports approximately 8,000 carloads of freight monthly and operates 54 Amtrak trains weekly over the St. Louis-Chicago corridor. The CMW's line between East St. Louis and Chicago contains trackage rights over the Burlington Northern Railroad (BN), Conrail (CR), Chicago, South Shore and South Bend Railroad (CSSSB), Illinois Central Railroad (ICR), Indiana Harbor Belt (IHB), and METRA.

On August 3, 1989, the Bankruptcy Court issued Order No. 145, Establishing procedure for Sale of Property of Estate, to cover the proposed sale of certain of CMW's rail lines requested by the carrier's Trustee, Daniel R. Murray, in a Notice of Sale filed with the court on August 3, 1989. The proposed sale ralates to the rail line and trackage rights operated by the CMW between

[1] In Finance Docket No. 31522, *Rio Grande Industries, Inc., Et al.—Purchase and Trackage Rights—Chicago, Missouri and Western Railway Company Between St. Louis, MO and Chicago, IL.*, served September 29, 1989, the Commission granted authority for Rio Grande Industries, Inc. (RGI), Southern Pacific Transportation Company (SPT), The Denver Rio Grande Western Railraod Company (DRGW), St. Louis Southwestern Railway Company (SSW), and SPCSL Corp. (SPCSL) a recently incorporated subsidiary of RGI, to acquire CMW's lines between East St. Louis, and Chicage, IL, East St. Louis and Godfrey, IL, and certain attendant trackage rights.

Chicago and East St. Louis. While the Commission, in a decision served on September 29, 1989, approved the purchase by RGI, the court must still decide whether to authorize the sale.

On October 12, 1989, the CMW's Trustee notified the Commission, in writing, that because of its deteriorating cash position the carrier will be unable to continue operations over its entire system. The directed service authority sought here will enhance CMW's ability to continue operations over the east-west portion of the railroad between Kansas City, MO and Springfield, IL, and between a junction with the Kansas City, MO line and East St. Louis, IL. To facilitate this partial operation, CMW states that it must cease operations between East St. Louis, IL and Chicago, IL no later than October 17, 1989. Simultaneously on October 12, 1989, RGI, on behalf of its subsidiary SSW and jointly with the Trustee, filed a request with the Commission to operate CMW's line between East St. Louis and Chicago as a directed carrier until a decision is reached on the sale by the bankruptcy court or for at least 45 days, and without compensation.

Section 11125(a) of the Interstate Commerce Act authorizes the Commission to act in situations where it finds that a rail carrier cannot transport traffic offered to it because—(1) its cash position makes its continuing operation impossible; (2) transportation has been discontinued under court order; or (3) it has discontinued transportation without obtaining a required certificate under 49 U.S.C. 10903 (emphasis added). The initial period for the directed service order may not exceed 60 days. However, the order may be extended for an additional period not to exceed 180 days.

Under a directed service order from the Commission, a directed carrier may voluntarily choose to provide directed service without any subsidy or compensation to which it may be entitled from the Commission, as SSW has done here. *See St. Louis S.W. Ry. Co.—Directed Service—Chicago*, 363 I.C.C. 1 (1980), and Directed Service Order No. 1504, The New York, Susquehanna and Western Railway Corporation—Direct Service—The Delaware and Hudson Railway Company, (not printed) served June 22, 1988.[2]

Considering CMW's announced imminent cessation of service due to cashlessness, and CMW's request that the Commission direct service over the East St. Louis to Chicago line, we find that CMW's current situation meets the statutory standards of 49 U.S.C. 11125(a)(1) and (3).

In view of the urgent need for continued rail service over CMW's East St. Louis to Chicago line, and SSW's willingness to provide directed service without compensation from the Federal government, the Commission is exercising its authority under 49 U.S.C. 11125(a) and authorizing SSW to commence operations upon CMW's cessation of service. Service authorized by this order includes operations utilizing trackage rights agreements, leases, and other existing arrangements of CMW with connecting railroads.[3]

The emergency nature of the situation compels us to conclude that advance public notice and hearings would be impractical and contrary to the immediate public interest concern to secure continued rail transportation services. Accordingly, we exercise our authority under 49 U.S.C. 11125(a) to waive advance public notice and hearings in the present circumstances.

Section 11125 permits us to direct service for an initial period of not more than 60 days, with an option to extend the directed service period for an additional 180 days, if cause exists. We believe directed service authority to be necessary here at least for an initial 60 day period. Any interested person may file comments on this action during this period.

Terms and Conditions

Effective Date

Directed Service Order No. 1507 shall be effective on October 16, 1989. On the date CMW ceases operations and notifies the Commission and SSW that it has done so, SSW shall be authorized to commence operations and shall notify the Commission and all parties to this proceeding of the date it commences operations under this authority.

Expiration Date

Unless otherwise modified by the Commission, Directed Service Order No. 1507 will expire at 11:59 p.m., on December 15, 1989.

Compensation

SSW's authority under Directed Service Order No. 1507 is expressly conditioned upon its waiver of all compensation under 49 U.S.C. 11125(b)(5).

Track Safety

In accordance with 49 U.S.C. 11125(b)(2)(a), SSW need not operate over any CMW line segment certified by the Federal Railroad Administration as being below Class I track safety standards.

Cars and Operating Equipment

In operating CMW's line, SSW shall use its own cars and operating equipment wherever possible. However, SSW may use CMW's cars and operating equipment on terms mutually agreeable to the parties.

Employees

In providing service under this directed service order, SSW shall comply with the requirements of 49 U.S.C. 11125(b)(4) with respect to CMW employees.

Preservation of the CMW estate

During the period of its operations of the CMW lines, SSW shall be responsible for preserving the value of those lines to the CMW estate. SSW shall thus have an affirmative duty to perform that degree of maintenance necessary to avoid deterioration of the lines and related facilities.

Rates

SSW is authorized to act on behalf of CMW in all matters of transportation. Rates and charges shall be those applicable to the line and in effect at the time SSW commences operations. SSW may seek changes in CMW rates and charges. All revenues from such charges shall accrue to the account of SSW during the effective period of this order, and shall not constitute assets of the Trustee or the estate.

Liability for Expenses

Any rehabilitation, operational, or other costs related to the authorized operations shall be the sole responsibility and liability of SSW. Any such costs or expenditures shall not be deemed an obligation or liability of the United States Government. SSW shall hold the United States Government harmless from any claims arising out of the authorized operations.

[2] Likewise, the Commission may authorize directed rail service without provision for compensation to the carrier over which service is directed. *Kansas City Terminal Ry. Co.—Operate—Chicago R.I. & P.*, 360 I.C.C. 289 (1979).

[3] We recognize that the Commission did not grant RGI the authority to acquire CMW's trackage rights over BN in Finance Docket No. 31522. That decision looks to a resolution of the long term transportation problems, and leaves to the parties the resolution of various contract issues. This decision, on the other hand, is based on an emergency need for continued rail transportation, will remain in effect for a short period of time, and is consistent with the Commission's treatment of other directed rail service emergencies.

Operational Difficulties

Any operational difficulties associated with the authorized operations shall be resolved by SSW and any other affected party through negotiated agreement, or failing agreement, by the Commission.

Amtrak Operations

SSW is required, by exercise of this authority, to fulfill all CMW operational contracts with Amtrak.

Reporting Requirements

To assist us in evaluating SSW's operation of the line, we shall require SSW to file a report at the end of the directed service period identifying: (a) The average number of carloads transported daily over the line during the directed service period; (b) the total gross revenue for the carloads transported; (c) CMW's normal portion of the total gross revenue; and (d) the number of weekly Amtrak train operations.

We Find

1. CMW intends to discontinue service over certain of its lines. SSW has requested the Commission to permit it to provide continued rail service over those lines between East St. Louis, IL and Chicago, IL.

2. To prevent severe transportation and economic disruptions when CMW ceases operations, it is necessary for the Commission to authorize SSW to operate CMW's lines between East St. Louis, IL and Chicago, IL under 49 U.S.C. 11125, conditioned upon a waiver of any compensation or subsidy from the Federal government.

3. Our action in this decision will not substantially impair the ability of SSW to serve its own patrons adequately, or to meet its outstanding common carrier obligations, *see* 49 U.S.C. 11125(b)(2)(B), and will assure continued rail service to affected shippers and passengers of Amtrak.

This action will not significantly affect either the quality of the human environment or energy conservation.

It Is Ordered

1. Based upon its undertaking to do so without any form of compensation from the Federal government, SSW is authorized to enter upon and operate CMW's lines between Chicago and St. Louis pursuant to this voluntary directed service order under 49 U.S.C. 11125.

(a) Entry by SSW may occur on the date CMW discontinues service and notifies SSW and the Commission that it has done so, and operations may continue no later than the sixtieth day after the service date of this decision.

(b) SSW shall immediately notify the Commission and the parties to this proceeding, in writing, of the date on which it commences operations under this order.

2. Operations under this order shall conform to the directions and conditions prescribed above.

3. All submissions filed in this proceeding should refer to DSO No. 1507 and be sent to the Commission's headquarters at 12th Street and Constitution Avenue, NW., Washington, DC 20423, An original and 10 copies should be submitted.

4. The provisions of this decision shall apply to intrastate, interstate, and foreign commerce.

5. The Commission retains jurisdiction to modify, supplement, or reconsider this decision at any time.

6. Notice of this decision shall be given to the general public by publication in the **Federal Register**. The decision will also be served on the Federal Railroad Administration, the Association of American Railroads, American Short Line Railroad Association, Amtrak, The Railway Labor Executives' Association, the CMW and the SSW, BN, CR, CSSSB, ICR, IHB, and METRA.

7. This decision and order shall become effective on October 16, 1989.

8. Unless otherwise modified by the Commission, this order will expire at 11:59 p.m., on December 15, 1989.

Decided: October 13, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley and Phillips.

Noreta R. McGee,

Secretary.

[FR Doc. 89-24697 Filed 10-18-89; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31505]

Rio Grande Industries, Inc., et al.—Purchase and Related Trackage Rights—SOO Line Railroad Company Line Between Kansas City, MO and Chicago, IL

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Decision No. 5.

SUMMARY: The Commission is accepting for consideration the application filed September 15, 1989, by Rio Grande Industries, Inc. (RGI), and its subsidiaries (Southern Pacific Transportation Company (SPT), The Denver and Rio Grande Western Railroad Company (DRGW), St. Louis Southwestern Railway Company (SSW), and SKCC Acquisition Corporation (SKCC) for the latter to acquire Soo Line Railroad Company's (Soo) line between Kansas City, MO, and Chicago, IL. This main line consists of approximately 482 miles of track. The applicants have also filed 16 related applications (Sub-Nos. 1–16) involving the assignment of trackage rights, stock acquisitions, and requests for terminal trackage rights under 49 U.S.C. 11103. A summary description of each of these related transactions is set forth below. In Decision No. 2, served and published (54 FR 32139–32140) on August 4, 1989, the Commission found this to be a significant transaction as defined in 49 CFR part 1180. Accordingly, the Commission has 10 months from the filing of the application to decide the case. 49 U.S.C. 11345(c). The schedule adopted here reflects this time period.

DATES: Written comments must be filed with the Interstate Commerce Commission no later than November 20, 1989. Responsive and inconsistent applications must be filed no later than December 20, 1989. For further information, see the procedural schedule contained in the appendix.

FOR FURTHER INFORMATION CONTACT:

Thomas B. Shick (202) 275–7972
Joseph H. Dettmar (202) 275–7245
[TDD for hearing impaired: (202) 275–1721]

ADDRESSES: An original and 20 copies of all documents must refer to Finance Docket No. 31505 and be sent to: Office of the Secretary, Case Control Branch, Attn: Finance Docket No. 31505, Interstate Commerce Commission, Washington, DC 20423.

In addition, one copy of all documents in this proceeding must be sent to each of applicants' representatives:

Terence M. Hynes, Sidley & Austin, 1722 Eye Street, NW, Washington, DC 20006

George W. Mayo, Jr., Hogan & Hartson, 555 Thirteenth Street, NW, Washington, DC 20004–1109.

SUPPLEMENTARY INFORMATION:

The related applications include the following:

Sub-No. 1. Soo's acquisition of trackage rights (and an associated haulage agreement) over the lines acquired by SKCC, giving Soo the right to serve local industries and connecting carriers on the lines and in Kansas City for traffic as to which Soo participates in a prior or subsequent line haul.

Sub-No. 2. SKCC's acquisition of certain overhead trackage rights (and associated haulage rights) over Soo's lines between Chicago and Milwaukee, WI, and between Sabula Junction, IA,

and Dubuque, IA (including related terminal, gathering and distribution services in the Milwaukee and Dubuque Terminal Areas), as well as trackage rights over certain Soo lines in the Chicago Terminal District.

Sub-No. 3. SKCC's acquisition of trackage rights through appointment by Soo (with Soo continuing to operate under these same rights) over those lines owned and operated by the Commuter Rail Division of the Regional Transportation Authority ("METRA") as to which Soo has trackage rights, including the METRA lines: (a) Between Madison Street, Chicago, and Fox Lake, IL; and (b) between Tower A–5 (Chicago) and Almora, IL. In the alternative, SKCC may acquire these trackage rights through a separate agreement with METRA.

Sub-No. 4. SKCC's acquisition by assignment of the rights currently held by Soo under agreements relating to the line of the Burlington Northern Railroad Company (BN), between Rockford, IL, and Davis Junction, IL (12.03 miles), which rights Soo currently uses in conjunction with its operations over the Kansas City-Chicago lines.

Sub-No. 5. SKCC's acquisition by assignment of the rights currently held by Soo under agreements relating to the following lines of the Chicago and North Western Transportation Company ("CNW"), which rights Soo currently employs in conjunction with its operations over the Kansas City-Chicago lines: (a) A joint facility currently owned and operated by Soo and CNW between Polo and KCT Junction, MO, consisting of paired trackage between Polo and Birmingham, MO, jointly-owned trackage between Birmingham and Air Line Junction, MO, and jointly-owned trackage between KCS Junction and KCT Junction, MO; (b) certain yard and industrial lead trackage in the area of Janesville, WI that CNW jointly owns with Soo; and (c) certain trackage and a bridge that CNW jointly owns with Soo in the area of Beloit, WI.

Sub-No. 6. SKCC's acquisition by assignment of the rights currently held by Soo under agreements relating to the following line of the Chicago, Central and Pacific Railroad Company ("CCP"): several thousand feet of side track jointly owned by Soo and CCP in the area of Rockford, IL.

Sub-No. 7. Soo's acquistion of terminal trackage rights pursuant to 49 U.S.C. 11103 over the following BN line so as to permit operations under the grant-back of trackage rights it receives from SKCC: line between Rockford, IL and Davis Junction, IL (12.03 miles).

Sub-No. 8. Soo's acquisition of terminal trackage rights pursuant to 49 U.S.C. 11103 over the following lines owned in whole or in part by CNW: (a) The CNW lines between Polo, MO and KCT Junction, MO, new subject to a joint facility agreement between CNW and Soo (which agreement Soo will assign to SKCC (*see* Sub-No. 5)) and consisting of the CNW line between Polo and Birmingham, MO (37.8 miles) that is operated as paired track with a parallel Soo line (to be conveyed to SKCC), and the lines jointly owned by CNW and Soo between Birmingham and Air Line Junction, MO (4.4 miles), and between KCS Junction, MO, and KCT Junction (0.13 miles) (Soo will convey its ownership interests in these lines to SKCC); (b) certain yard and industrial lead track in the area of Janesville, WI that CNW jointly owns with Soo; and (c) certain track and a bridge that CNW jointly owns with Soo in the area of Beloit, WI.

Sub-No. 9. Soo's acquisition of terminal trackage rights pursuant to 49 U.S.C. 11103 over the following CCP line to permit operations under the grant-back of trackage rights it receives from SKCC: several thousand feet of side track in the areas of Rockford, IL, jointly owned by CCP and Soo.

Sub-No. 10. SKCC's acquisition of terminal trackage rights pursuant to 49 U.S.C. 11103 over the following lines of BN: (a) Line in the area of Clinton, IA (1.4 miles); (b) line between Rock Island (Terminal Junction), IL, and East Moline (DRI & NW Junction), IL (6.3 miles); (c) certain track BN jointly owns with Soo in the area of East Moline, IL; (d) certain track BN jointly owns with Soo in the area of Clinton, IA. Soo currently has trackage rights that are used in conjuction with its operations over the Kansas City-Chicago lines. (Soo will retain its existing rights for use in its trackage rights operations over the lines.)

Sub-No. 11. SKCC's acquisition of terminal trackage rights pursuant to 49 U.S.C. 11103 over the following lines of CNW: Certain cross-over treacks and appurtenant approach tracks in the area of Clinton, IA (0.49 miles); line between Bryn Mawr, IL, and Shermer (A–20), IL (10.24 miles); and certain other track in the area of Clinton, IA. Soo currently has trackage rights that are used in conjunction with its operations over the Kansas City-Chicago lines. (Soo will retain its existing rights for use in its trackage rights operations over the lines.)

Sub-No. 12. SKCC's acquisition of terminal trackage rights pursuant to 49 U.S.C. 11103 over the Davenport, Rock Island & North Western Railway Company ("DRI") line between Clinton, IA and east Moline, IL (36.11 miles). Soo currently has trackage rights that are used in conjunction with its operations over the Kansas City-Chicago lines. (Soo will retain its existing rights for use in its trackage rights operations over the lines.)

Sub-No. 13. SKCC's acquisition of terminal trackage rights pursuant to 49 U.S.C. 11103 over Indiana Harbor Belt Railroad Company (IHB") lines between Franklin Park, IL, and Blue Island, IL (including the right to interchange with other carriers at Blue Island). Soo currently has trackage rights used in conjunction with its operations over the Kansas City-Chicago lines. (Soo will retain its existing rights for use in its trackage rights operations over the lines.)

Sub-No. 14. SKCC's acquisition of terminal trackage rights pursuant to 49 U.S.C. 11103 over the KCS line between Air Line Junction, MO, and KCS Junction, MO. Soo currently has trackage rights that are used in conjuction with its operations over the Kansas City-Chicago lines. (Soo will retain its existing rights for use in its trackage rights operations over the lines.) In addition, SKCC seeks terminal rights over a short segment of KCS trackage intersecting the Kansas City-Chicago lines between Air Line Junction and KCS Junction in the Kansas City Terminal area. The rights are necessary to create a continuous route between the lines to be acquired by SKCC and DRGW's trackage rights over the lines of Union Pacific Railroad Company ("UP") via Osawatomie.[1]

Sub-No. 15. SKCC's acquistion of the 50 percent common stock ownership interest of Soo in DRI. BN currently owns the remaining 50 percent. Since the proposed stock acquisition will not give SKCC control of DRI, applicants will seek dismissal of their related application or an exemption concerning this stock acquisition.

Sub-No. 16. SKCC's acquisition of one-half of the 49 percent common stock ownership interest of Soo in the Indiana Harbor Belt Railroad Company ("IHB"). Contrail currently owns the remaining 51 percent. Since the proposed stock acquisition will not give SKCC control of IHB, applicants will seek dismissal of their related application or an exemption concerning this stock acquisition.

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[1] With regard to all the various terminal trackage rights applications, SKCC and Soo, as appropriate, state an intention to negotiate voluntary agreements with each of the owning carriers. The applicants are filing the applications in case these negotiations prove unsuccessful.

The applications and exhibits are available for inspection in the Public Docket Room at the offices of the Interstate Commerce Commission in Washington, DC. The procedural schedule adopted for this proceeding is set forth below.

Any interested person may participate in this proceeding by submitting written comments regarding the application. Comments including initial lists of protective conditions and notices of intent to file responsive or inconsistent applications must be filed no later than November 20, 1989. An original and 20 copies must be filed with the Secretary, Interstate Commerce Commission, Washington, DC 20423. Written comments shall be concurrently served by first class mail on the United States Secretary of Transportation and the Attorney General of the United States. Written comments must also be served upon all parties of record within 10 days after the service list is issued by the Commission. We plan to issue the service list by December 5, 1989. Any person who timely files written comments shall be considered a party of record if they so indicate in their comments. In this event, no petition for leave to intervene need be filed. Comments must contain the information specified at 49 CFR 1180.4(d)(1)(iii).

Comments filed by railroads must contain a statement on whether the commenting railroad intends to file inconsistent applications, petitions for inclusion, trackage rights, or any other affirmative relief requiring an application to be filed with the Commission. This will be considered a prefiling notice without which the commission will not entertain applications for this type of relief.

Preliminary comments from the Secretary of Transportation and Attorney General must be filed by December 5, 1989.

Parties seeking to modify any of the protective conditions requested in their inital comments must file a second list of protective conditions no later than December 20, 1989. Parties will not be permitted to seek any protective conditions other than those requested in either their first or second list of protective conditions.

Parties filing responsive applications must do so no later than December 20, 1989. Responsive applications include inconsistent applications, petitions for inclusion, and any other affirmative relief that requires an application to be filed with the Commission (including trackage rights; purchase, acquisition, construction, or operation of a railroad line; pooling or terminal operations; or abandonment of a railroad line). Any responsive applications that are not major are presumed to be significant. Responsive applications must include all supporting evidence in the form of verified statements.

All evidence in opposition to the primary application including verified statements, is due December 20, 1989. Opposition evidence shall be served on all parties of record and shall be filed (with 20 copies) with the Commission.

Primary and responsive applicants and other parties supporting applicants may file evidence in rebuttal to any opposition evidence (including opposing evidence submitted by interveners). Rebuttal evidence of primary applications shall be due February 5, 1990. Rebuttal evidence of responsive and inconsistent applicants and other parties shall be due March 7, 1990. Rebuttal evidence must be served on all parties of record and filed (with 20 copies) with the Commission.

Any impact analysis, traffic studies, and data submitted shall relate to the calendar year 1988. These data may be supplemented with more recent data where available and relevant.

Parties should contact Thomas B. Shick (202) 275–7972 to obtain docket numbers for any responsive and inconsistent applications. Petitions for waiver, clarification, or leave to file an incomplete application shall be filed no later than 30 days prior to the filing of such responsive or inconsistent application. Each responsive application filed and accepted will be consolidated with the primary application in this proceeding.

Additional information is contained in the Commission's Decision No. 5. To purchase a copy of that decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone (202) 289–4357/4359. (Assistance for the hearing impaired is available through TDD Services (202) 275–1721.)

Decided: October 13, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips.

Noreta R. McGee,

Secretary.

Appendix

Procedural Schedule

Day 1	Application accepted and published.
+20	Discovery conference on primary application.
+30	Written comments and protests, including initial list of protective conditions and notice of intent to file responsive or inconsistent applications.
+45	DOT and DOJ comments due.
+60	Second list of protective conditions due. Responsive and inconsistent applications due. Evidence in opposition due.
+80	Discovery conference on comments, protests, conditions, and responses and inconsistent applications due. Commission issues service list.
+105	Responses to comments, protests, conditions and rebuttal in support of primary application due.
+135	Rebuttal in support of comments, protests, conditions and inconsistent applications due.
+160	Opening briefs due, all parties.
+180	Reply briefs due, all parties.
+—	Oral argument (to be scheduled).
+—	Voting conference (to be scheduled).
+270	Decision served.

[FR Doc. 89-24716 Filed 10-18-89; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-No. 318x)]

CSX Transportation, Inc.: Abandonment Exemption of Railroad Line in Nicholas County, WV

Applicant has filed a notice of exemption under 49 CFR part 1152, subpart F—Exempt Abandonments to abandon its 0.03-mile line of railroad in Nicholas County, WV: (1) Between milepost 0.00, near Curtin, and milepost 6.09, at Donegan No. 10; and (2) between milepost 0.00, at Panther Creek Junction, to the end of the line at milepost 1.94.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial

revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on November 18, 1989 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by October 30, 1989.[3] Petitions for reconsideration and requests for public use conditions under 49 CFR 1152.28 must be filed by November 8, 1989, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Patricia Vail, CSX Transportation, Inc., 500 Water Street, Jacksonville, FL 32202.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by October 24, 1989. Interested persons may obtain a copy of the EA from SEE by writing to it (Room 3219), Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 275–7684. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: October 12, 1989.

[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See* Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] *See* Exempt. of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C.2d 164 (1987).

[3] The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89–24574 Filed 10–18–89; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–3 (Sub–No. 89X)]

Missouri Pacific Railroad Company—Abandonment Exemption—In Assumption Parish, LA

Applicant has filed a notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments* to abandon its 4-mile line of railroad between milespost 5, near Lula, and milepost 9, near Westfield, Assumption Parish, LA.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adquately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on November 18, 1989 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by October 30, 1989.[3] Petitions for reconsideration and requests for public use conditions under 49 CFR 1152.28 must be filed by November 8, 1989, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Jeanna L. Regier, Room 830, 1416 Dodge Street, Omaha, NE 68179.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by October 24, 1989. Interested persons my obtain a copy of the EA from SEE by writing to it (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 275–7684. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: October 13, 1989.

By the Commission, Jane F. Mackall, Director, Office of Preoceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89–24696 Filed 10–18–89; 8:45 am]

BILLING CODE 7035–01–M

[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[3] The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.

DEPARTMENT OF JUSTICE

Extension of Public Comment Period on Proposed Consent Decree

In accordance with section 122 of the Comprehensive Environmental Response, Compensation and Liability Act, as amended ("CERCLA"), 42 U.S.C. 9622, and the policy of the Department of Justice, 28 CFR 50.7, notice was published in the **Federal Register** on August 21, 1989, that a complaint was filed on July 31, 1989, in *United States* v.

French Limited, Inc., et al., Civil Action No. H–89–2544, in the United States District Court for the Southern District of Texas, Houston Division, and, simultaneously, a consent decree between the United States, French Limited, Inc. and eighty-six other defendants was lodged with the court. The prior notice stated that public comments on the proposed consent decree would be received for a period of thirty (30) days from the date of publication of the notice. In response to a request submitted on behalf of residents living in the vicinity of the French Limited Site, the public comment period on the proposed consent decree is being extended until November 15, 1989.

Accordingly, the Department of Justice will receive comments relating to the proposed consent decree until November 15, 1989. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, 10th and Pennsylvania Avenue, NW., Washington, DC 20530. All comments should refer to *United States* v. *French Limited, Inc.*, D.J. Ref. 90–11–3–46A.

The proposed consent decree may be examined at the following offices of the United States Attorney and the Environmental Protection Agency ("EPA"):

EPA Region VI Contact: Pamela Phillips, Office of Regional Counsel, U.S. Environmental Protection Agency, Region VI, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 655–2120;

United States Attorney's Office Janet Craig, Assistant United States Attorney, Civil Division, U.S. Courthouse & Federal Building, 515 Rusk, 3rd Floor, Houston, Texas 77002, (713) 229–2600.

Copies of the proposed consent decree may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division, United States Department of Justice, Room 1515, 10th and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy of the decree, please enclose a check for copying costs in the amount of $19.90 payable to Treasurer of the United States.

George Van Cleve,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89–24623 Filed 10–18–89; 8:45 a.m.]

BILLING CODE 4410–01–M

Office of the Attorney General

[Order No. 1371–89]

Termination of Department of Justice Policy Boards

By virtue of the authority vested in me by 5 U.S.C. 301, and 28 U.S.C. 509 and 510, I hereby revoke Attorney General Order 1275–88, dated June 7, 1988, and terminate the Personnel Policy Board; revoke Attorney General Order 1276–88, dated June 7, 1988, and terminate the Department Resources Board; revoke Attorney General Order 1277–88, dated June 7, 1988, and terminate the Strategic Planning Board; revoke Attorney General Order 1278–88, dated June 7, 1988, and terminate the Research and Development Board; and revoke Attorney General Order 1279–88, dated June 7, 1988, and terminate the Special Issues Coordinating Group.

This order is effective on the date of signature.

Dated: October 10, 1989.

Dick Thornburgh,

Attorney General.

[FR Doc. 89–24624 Filed 10–18–89; 8:45 am]

BILLING CODE 4410–01–M

NATIONAL COMMISSION ON ACQUIRED IMMUNE DEFICIENCY SYNDROME

AGENCY: National Commission on Acquired Immune Deficiency Syndrome.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463 as amended, the National Commission on Acquired Immune Deficiency Syndrome announces a forthcoming meeting of the Commission.

DATE AND TIME: November 2, 1989 9:00 a.m. to 5:00 p.m.
November 3, 1989 9:00 a.m. to 4:00 p.m.

PLACE: Pan American Health Organization, Conference Room A, Second Floor, 525 23rd Street, NW., Washington, DC 20037.

DATE AND TIME: November 3, 1989 4:00 p.m. to 9:00 p.m.
November 4, 1989 9:00 a.m. to 4:00 p.m.

PLACE: Xerox Conference Center, Leesburg, Virginia.

TYPE OF MEETING: Open.

FOR FURTHER INFORMATION CONTACT: Maureen Byrnes, Executive Director, The National Commission on Acquired Immue Deficiency Syndrome, 1730 K Street, NW., 8th Floor, Washington, DC 20006 (202/254–5125).

Agenda: On the morning of November 2nd the Commission will hear from a variety of public witnesses on international issues related to HIV and AIDS. These witnesses will include Dr. Jonathan Mann, Director Global Program on AIDS, World Health Organization.

The balance of November 2nd and the following day, November 3rd, will focus on the issues associated with the care and treatment of people with AIDS and the financing of such services.

The Commission will spend the evening of November 3rd and the following day, November 4th at the Xerox Conference Center in Lessburg, Virginia. The Commissioners will utilize this time to exchange information and ideas about their experiences and backgrounds related to HIV and AIDS and to explore ways in which the Commission as a group can most effectively respond to the Commission's statutory charge.

Maureen Byrnes,

Executive Director.

[FR Doc. 89–24781 Filed 10–18–89; 8:45 am]

BILLING CODE 6820–CN–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Arts National Council; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the National Council on the Arts will be held on November 3–4, 1989 from 9:00 a.m. to 5:30 p.m., and on November 5, 1989 from 9:00 a.m. to 1:00 p.m., in Room M–09 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

A portion of this meeting will be open to the public on Friday, November 3, 1989 from 9:00 a.m. to 5:30 p.m., and on Saturday, November 4, 1989, from 9:00 a.m. to 4:15 p.m. The topics for discussion will include Program Review and Guidelines for Visual Arts Program; Design Arts Program; Inter-Arts Program; Music Program: Presenters and Festivals; and the Media Arts Program. In addition there will be a discussion on Reauthorization of the Agency, FY 90 Appropriations, Issues and Concerns of the National Council on the Arts, Promoting a Positive Image of the Agency, and a report from the Southern States Regional Representative.

The remaining session on Saturday November 4, 1989, from 4:15 p.m. to 5:30 p.m. and on Sunday, November 5, from 9:00 a.m.–1:00 p.m. is for the purpose of Council review, discussion, evaluation and recommendation on applications for

financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, this session will be closed to the public pursuant to subsections (c)(4), (6) and (B) of title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682–5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 89–24614 Filed 10–18–89; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Interagency Arctic Research Policy Committee

In accordance with the Arctic Research and Policy Act, Public Law 98–373, the National Science Foundation announces the following meeting:

Name: Interagency Arctic Research Policy Committee.

Date and Time: November 6, 1989, 1:30 p.m.

Place: National Science Foundation, Room 540, 18th and G Street NW., Washington, DC.

Type of Meeting: Open. Part of the meeting (3:00–3:30 p.m.) will be closed to discuss budgetary matters.

Contact Person: Jerry Brown or Charles E. Myers, Division of Polar Programs, Room 627, National Science Foundation, Washington, DC 20550, Telephone: (202) 357–7817.

Purpose of Committee: The Interagency Arctic Research Policy Committee was established by Public Law 98–373, the Arctic Research and Policy Act, to survey arctic research, help determine priorities for future arctic research, assist in the development of a national arctic research policy, prepare a single, integrated multi-agency budget request for arctic research, develop a plan to implement national arctic research policy, and facilitate cooperation in and coordination of arctic research.

Agenda:

1. Status of Biennial Reporting.
2. Arctic Oceans Research Plan.
3. International Activities.
4. Arctic Research Consortium of the United States.

Public Participation: Committee meetings are not designed as public hearings and will not normally receive verbal comments from observers unless specifically invited by the Committee. Observers invited to address the Committee will be limited to 5 minutes each. An invitation to address the Committee is contingent upon advance submission of the proposed statement and a determination by the Committee that such statement is relevant and appropriate to the agenda at that particular meeting. The texts of such statements shall not exceed 5 double spaced typed pages each.

Charles E. Myers,

Division of Polar Programs.

[FR Doc. 89–24618 Filed 10–18–89; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–333]

Power Authority of the State of New York; Correction; Environmental Assessment and Finding of No Significant Impact

In the environmental assessment document appearing in the **Federal Register** of October 3, 1989 (54 FR 40759), make the following correction:

In the last full paragraph, in the first column, on page 40760, paragraph should read: "Dated at Rockville, Maryland, this 28th day of September 1989."

Dated at Rockville, Maryland, this 10th day of October 1989.

For the Nuclear Regulatory Commission.

Robert A. Capra,

Director, Project Directorate I–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 89–24684; Filed 10–18–89; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–454, 50–455, 50–456, and 50–457]

Commonwealth Edision Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 34 to Facility Operating License Nos. NPF–37 and NPF–66 issued to Commonwealth Edision Company, which revised the Technical Specifications for operation of the Byron Station, Units 1 and 2, located in Ogle County, Illinois and Amendment No. 22 to Facility Operating License Nos. NPF–72 and NPF–77 which revised the Technical Specifications for Braidwood Station, Units 1 and 2, located in Will County, Illinois. The amendments were effective as of the date of its issuance.

The amendments modify Technical Specification Figure 3.2–2 which depicts the normalized heat flux hot channel factor as a function of core height.

The application for the amendment 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 amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this was published in the **Federal Register** on December 31, 1987 (53 FR 49540). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment and Finding of No Significant Impact related to the action and has concluded that an environmental impact statement is not warranted because there will be no environmental impact attributable to the action beyond that which has been predicted and described in the Commission's Final Environmental Statement for Byron dated April 1982 and for Braidwood dated June 1984.

For further details with respect to the actions see (1) the application for amendment dated December 4, 1987, (2) Amendment No. 34 to License No. NPF–37 and NPF–66, (3) Amendment No. 22 to License No. NPF–72 and NPF–77, and (4) the Commission's related Safety Evaluation and Environmental Assessment and Finding of No Significant Impact. All of these items are available for public inspection at the Commission's Public Document Room, 2120 L Street, N.W., the Rockford Public Library, 215 N. Wyman Street, Rockford Illinois 61101, and at the Wilmington Township Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481. A copy of items (2), (3), and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

Dated at Rockville, Maryland, this 11th day of October 1989.

For the Nuclear Regulatory Commission.

Byron Siegel,

Acting Director, Project Directorate III–2, Division of Reactor Projects—III, IV, and V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 89–24683 Filed 10–18–89; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Cincinnati Stock Exchange, Inc.

October 10, 1989.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Allergran, Inc.
Common Stock, $.01 Par Value (File No. 7–5406)
American President Companies, Ltd.
$3.50 Cm. Cv. Exch. Ser. B Pfd., $.01 Par Value (File No. 7–5407)
Baker Hughes Inc. Corp.
$3.50 Cm. Cv. Exch. Pfd., $1.00 Par Value (File No. 7–5408)
BP Prudholde Bay Royalty Trust
Common Stock, No Par Value (File No. 7–5409)
Cabletron Systems, Inc.
Common Stock, $.01 Par Value (File No. 7–5410)
Cummins Engine, Inc.
$3.50 Dep. Cv. Exch. Pref., No Par Value (File No. 7–5411)
Environmental Systems
$1.75 Cm. Cv. Exch. A Pfd., $1.00 Par Value (File No. 7–5412)
GATX Corp.
$2.50 Cm. Pfd. Vtg., $1.00 Par Value (File No. 7–5413)
Integrated Resources, Inc.
$1.8125 Cm. Cv. Exch. Pfd., $1.00 Par Value (File No. 7–5414)
Mass Mutual Corporate Investors
Common Stock, $1.00 Par Value (File No. 7–5415)
Morton International, Inc.
Common Stock, $1.00 Par Value (File No. 7–5416)
Plum Creek Timber Co. L.P.
Common Stock, No Par Value (File No. 7–5417)
Putnam High Yield Municipal Trust
Common Stock, No Par Value (File No. 7–5418)
R.O.C. Taiwan Fund
Shares of Beneficial Interest (File No. 7–5419)
Smithkline Beechman plc
Unit 5 ord "B" shrs/1 $2.25 Pfd., American Depository Shares (File No. 7–5420)
Smithkline Beechman plc
American Depository Shares (File No. 7–5421)
TCF Financial Corp.
Common Stock, $.01 Par Value (File No. 7–5422)
Thiokol Corp.
Common Stock, $1.00 Par Value (File No. 7–5423)
Van Kampen Merritt Ltd. Term High Income Inc.
Common Stock, $.01 Par Value (File No. 7–5424)
Xtra Corp.
$1.9375 Cm. Cv. B Pfd., No Par Value (File No. 7–5425)
Lifetime Corp.
Common Stock, $.01 Par Value (File No. 7–5426)
New Line Cinema
Common Stock, $.01 Par Value (File No. 7–5427)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 31, 1989, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 24650 Filed 10–18–89; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–27346; File No. SR–DTC–89–17]

Self-Regulatory Organizations; Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Clarifying Procedures Relating to the Deposit of Foreign-Owned Shares of U.S. Communications and Maritime Issuers

October 6, 1989.

On September 12, 1989, the Depository Trust Company ("DTC") filed a proposed rule change with the Commission under Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") that would clarify certain DTC procedures applicable to foreign-owned shares of United States ("U.S.") communications and maritime issuers. The Commission is publishing this notice to solicit comment on the proposal.

Foreign-owned shares of U.S. communications and maritime issuers are eligible for DTC book-entry services.[1] Federal law, however, restricts the number of shares of certain U.S. communications and maritime issuers that may be owned beneficially by non-U.S. citizens.[2] As discussed below, DTC has certification procedures designed to ensure that shares it holds on behalf of participants do not exceed these ownership limitations.[3]

Foreign-owned shares of U.S. communications and maritime issuers are deposited at DTC into special segregation accounts known as Seg-100 accounts.[4] DTC periodically reports to transfer agents to aggregate number of shares in applicable Seg-100 accounts and transfer agents maintain records of those holdings. If a transfer to a Seg-100 account causes ownership limitations to be exceeded, the transfer agent notifies DTC, and DTC debits the account of the participant that last transferred shares to its Seg-100 account, requiring that participant to withdraw immediately from its DTC general account such foreign-owned shares.

The proposal clarifies that if DTC is notified of a transfer exceeding ownership limitations, it will act affirmatively to facilitate certificate withdrawal in accordance with the procedures described above, including, where necessary, disclosing to the issuer the identity of the affected participant and the number of shares to be withdrawn. The proposal also clarifies that, upon request by an issuer or its transfer agent, DTC will provide periodic reports listing the name of each participant having a Seg-100 position in

[1] *See* Securities Exchange Act Release No. 25988 (August 10, 1988), 53 FR 30893, in which the Commission approved a DTC proposal establishing procedures for the deposit and transfer of foreign-owned shares of U.S. communications and maritime issuers.

[2] According to DTC, shares owned beneficially by non-U.S. citizens are prohibited from exceeding 25% of certain stock issues by provisions of the Shipping Act and Federal Communications Act. *See* Release No. 25988, *supra* note 1, at note 1.

[3] DTC believes its certification procedures conform to the requirements of the Shipping Act and Federal Communications Act. The Commission takes no position on whether DTC's certification procedures comply with these laws. *See* Release No. 25988, *supra* note 1, at note 2.

[4] For a more detailed discussion of these procedures, *see* File No. SR–DTC–88–09 and Release No. 25988, *supra* note 1.

the issuer's shares and the amount of shares segregated.[5]

DTC believes the proposal is consistent with the requirements of the Act. Specifically, DTC believes the above clarifications are designed to enhance the integrity of DTC procedures applicable to foreign-owned shares of U.S. communications and maritime issuers, thereby promoting the prompt and accurate clearance and settlement of transactions in those securities.

The foregoing change has become effective, pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views, and arguments concerning the submission within 21 days after the date of publication in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Reference should be made to File No. SR–DTC–89–17.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC. Copies of the filing (SR–DTC–89–17) and of any subsequent amendments also will be available for inspection and copying at DTC's principal office. All submissions to File No. SR–DTC–89–17 should be submitted by November 9, 1989.

[5] DTC believes it is authorized to provide securities position listings to the issuer of any security on deposit pursuant to the Participant's Agreement executed by each DTC participant. *See* File No. SR–DTC–89–17.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority. 17 CFR 200.30–3.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–24657 Filed 10–18–89; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–27344; File No. SR–GSCC–89–11]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Filing and Immediate Effectiveness of Proposed Rule Change Interpreting GSCC's Rule 4

October 6, 1989.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 25, 1989, GSCC filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by GSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The text of the proposed rule interpretation is provided in Exhibit A.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, GSCC included statements concerning the purpose of and basis for the proposed rule interpretation and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. GSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) The purpose of the proposed rule interpretation is to clarify the extent to which Clearing Fund and other required deposits of Netting Members may be applied to a loss or liability incurred by GSCC.

Both numbered paragraphs interpret Section 6 of GSCC Rule 4, which provides that the use of the Clearing Fund shall be limited to satisfaction of losses or liabilities of GSCC arising from the failure of a Netting Member to satisfy an obligation to GSCC or incident to the clearance and settlement business of GSCC other than from such failure of a Member, and to provide GSCC with a source of collateral to meet its temporary financing needs. (This interpretation also affects Inter-Dealer Broker Netting Members, who do not contribute to the Clearing Fund, because of Section 7 of Rule 4, which provides that collateral in the amount of $1.6 million is required to be maintained by such Members for the purpose of collateralizing any obligations that such Members may have to GSCC.) The first numbered paragraph addresses the issue of the concept of "arising incident to the clearance and settlement business of GSCC", with the Board making clear that the scope of this concept has not been pre-determined, and that the judgment as to whether a loss or liability has arisen incident to the clearance and settlement business of GSCC is one that is appropriately made on a case-by-case basis by the Board of Directors. In rendering this interpretation, it was the Board's intention that no inference be drawn that GSCC would not be able or willing to satisfy all losses or liabilities that may arise other than from the failure of a Member.

The second numbered paragraph is intended to make clear that the use of required deposits to provide GSCC with a source of collateral for financing is limited to their use to satisfy those temporary financing needs related to the clearance and settlement business of GSCC. This interpretation was rendered by the Board to clarify the intended meaning of the language of Section 6 of Rule 4 regarding temporary financing.

(b) For the reasons provided in paragraph (a) above of this section, the proposed rule interpretation is consistent with the requirements of the Securities Exchange Act of 1934, as amended (the "Act") and the rules and regulations thereunder applicable to a self-regulatory organization.

B. Self-Regulatory Organization's Statement on Burden on Competition

GSCC does not believe that the proposed rule interpretation will have an impact on, or impose a burden on, competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments on the proposed rule interpretation have not been solicited or received. Members will be notified of

the rule filing, and comments will be solicited, by an Important Notice. GSCC will notify the Securities and Exchange Commission of any written comments received by GSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective, pursuant to Section 19(b)(3)(A) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. GSCC–89–11 and should be submitted by November 9, 1989.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Exhibit A—Interpretation of the Board of Directors of the Government Securities Clearing Corporation

Pursuant to Rule 47 of the Government Securities Clearing Corporation ("GSCC"), the Board of Directors has the authority to interpret the rules of GSCC. The purpose of this interpretation is to clarify certain provisions of GSCC Rule 4 (11Rule 4") and the extent to which Clearing Fund and other required deposits of Netting Members may be applied to a loss or liability incurred by GSCC.

Section 6 of Rule 4 provides that the use of the Clearing Fund shall be limited to satisfaction of losses or liabilities of GSCC arising from the failure of a Netting Member to satisfy an obligation to GSCC or incident to the clearance and settlement business of GSCC other than from such failure of such Member, and to providing GSCC with a source of collateral to meet its temporary financing needs. Section 7 of Rule 4 provides that collateral in the amount of $1.6 million is required to be maintained by Inter-Dealer Broker Netting Members (which Members are not required to contribute to the Clearing Fund for the purpose of collateralizing any obligations that such Member may have to GSCC pursuant to the Shareholder Agreement and Section 8 (Allocation of Loss or Liability Incurred by the Corporation) of Rule 4.

1. Use of Required Deposits To Satisfy a Loss or Liability Arising Incident to the Clearance and Settlement Business of GSCC

The appropriateness of the use of required deposits to satisfy in whole or part a loss or liability arising incident to the clearance and settlement business of GSCC is best determined by the Board of Directors on a case-by-case basis. The determination as to whether a loss or liability arose incident to the clearance and settlement business of GSCC such that the loss or liability may be covered by Netting Members' required collateral may be made only by the Board of Directors, after consideration of the circumstances that led to the loss and liability and the effect on GSCC of the use of required collateral to cover such loss or liability.

2. Use of Required Deposits To Provide GSCC With a Source of Collateral To Meet Its Temporary Financing Needs

The use of required deposits to provide GSCC with a source of collateral for financing to those temporary financing needs related to the clearance and settlement business of GSCC.

[FR Doc. 89–24656 Filed 10–18–89; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

October 10, 1989.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Advance Medical Technologies
Common Stock, $.01 Par Value (File No. 7–5401)
CXR Telecom Corporation
Common Stock, $.0033 Par Value (File No. 7–5402)
IVAX Corporation
Common Stock, $.10 Par Value (File No. 7–5403)
Munivest Fund
Common Stock, $.10 Par Value (File No. 7–5404)
T2 Medical, Inc.
Common Stock, $.01 Par Value (File No. 7–5405)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 31, 1989, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–24651 Filed 10–18–89; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34-27358; File No. SR-MSE-87-13]

Self-Regulatory Organizations; Midwest Stock Exchange, Inc.; Filing of Amendment No. 2 to a Proposed Rule Change Relating to Modifications to the Co-Specialist Evaluation Questionnaire

Pursuant to section 19(b)((1), 15 U.S.C. 78s(b)(1), of the Securities Exchange Act of 1934 ("Act") and Rule 19b–4 thereunder, 17 CFR 240.19b–4, notice is hereby given that on September 22, 1989, the Midwest Stock Exchange, Inc. ("Midwest" or "Exchange") submitted to the Securities and Exchange Commission ("Commission" or "SEC") Amendment No. 2 to a proposed rule change as described in Items, I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Midwest has submitted a revised Co-Specialist Evaluation Questionnaire ("Questionnaire") which is completed periodically by Floor brokers when assessing the performance of co-specialists. This is the second amendment to Midwest's previous filing SR–MSE–87–13.[1] The complete text of Amendment No. 2, as well as the text of the original proposed rule change and Amendment No. 1, is available at the Midwest's Office of the Secretary and at the Commission's Public Reference Section.

The text of Amendment No. 2 is as follows:

Co-Specialist Evaluation Questionnaire

Item 2. *Accepting and Filling Orders in Thinly Traded Issues.*

5—Consistently Accepts Order and Fills Oversized Orders

4—

3—Accepts and Fills Orders Pursuant to Minimum Exchange Requirements

2—

1—Puts Issues Consistently on Automatic and Consistently Turns Down Order Flow

[1] Notice of the original filing of the proposed rule change was provided by the issuance of a Commission release (Securities Exchange Act Release No. 25387, February 23, 1988), and by publication in the **Federal Register** (53 FR 6723, March 2, 1988). Notice of the filing of Amendment No. 1 was likewise provided by the issuance of a Commission release (Securities Exchange Act Release No. 26856, May 22, 1989), and by publication in the **Federal Register** (54 FR 22827, May 26, 1989).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed amendment is to further clarify the ranking descriptions contained in Item 2 of the revised Questionnaire. The ranking descriptions of Item 2 as previously submitted did not adequately reflect performance standards as to a co-specialist's willingness to accept and fill orders in thinly traded issues. The new descriptions more accurately describe performance levels for this category.

The proposed amendment is consistent with section 6 of the Act in that it promotes just and equitable principles of trade by further defining the standards by which a co-specialist's performance is assessed.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Midwest does not believe any burdens will be placed on competition as a result of the proposed amendment.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The amendment reflects in part certain comments made by the Commission's staff and the Midwest Members Association.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or,

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Midwest. All submissions should refer to the file number in the caption above and should be submitted by November 9, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 11, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–24654 Filed 10–18–89; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34-27357; File No. SR-NYSE-89-28]

Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval of Proposed Rule Change by New York Stock Exchange, Inc. Relating To Exemptions From the Compliance Official Qualification ("Series 14") Examination Requirements

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on September 26, 1989, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared

by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposal creates an exemption to the Compliance Official Qualification ("Series 14") Examination requirements for Exchange members and member organizations conducting business with the public and whose commissions, mark-ups and other fees generated specifically from business with the public ("public business income") do not exceed $500,000 in the preceding year and who introduce all accounts to another broker/dealer.[1]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below and is set forth in Sections A, B and C and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of this change is to create an exemption to the Series 14 examination requirements for members and member organizations that conduct a limited public business.

The content and scope of the Series 14 examination exceed what is necessary and appropriate for compliance officials of members and member organizations that conduct a limited public business (*i.e.*, generating public business income not in excess of $500,000 in a calendar year, and introducing all accounts to another broker/dealer). Therefore, the Exchange has determined that it is inappropriate for these qualification examination requirements to apply to such persons. Members and member organizations to whom this exemption shall apply are still required to comply with all other supervisory and qualification requirements.

The statutory basis for this proposal lies in section 6(c)(3)(B) of the Act. Under that Section, it is the Exchange's responsibility to prescribe standards of training, experience and competence for persons associated with Exchange members and member organizations. Pursuant to this statutory provision, the Exchange has developed certain examination requirements while taking into consideration unique factors and circumstances in regard to the application of these requirements to particular individuals.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that this proposal imposes any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were neither solicited nor received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all 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 persons, other than those that may be withheld from the public in accordance with the provisions of 5 .S.C. 552 will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–89–28 and should be submitted by November 9, 1989

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission has closely reviewed the proposed exemption from the NYSE's Compliance Official Qualification (Series 14) Examination for compliance officials of members and member organizations that conduct a limited public business.[2] The Commission believes that the proposed exemption is consistent with the requirements of the Act and the rules and regulations thereunder. In particular, the Commission believes that the proposed rule change is consistent with section 6(c)(3)(B) [3] which provides that a national securities exchange may prescribe standards for training, experience, and competence for its members or persons associated with its members. The Commission agrees with the NYSE that the content and scope of the Series 14 examination exceeds the appropriate competency level for compliance officials of members and member organizations that conduct a limited public business.

As noted above, the requirement that individuals having overall day-to-day compliance responsibilities for their firms, or who directly supervise persons engaged in compliance activity, pass a Compliance Official Qualification Examination was approved by the Commission in order to supplement existing compliance procedures of NYSE members and member organizations.[4] In its order approving this requirement, the Commission stated that the compliance official qualification examination will ensure that those persons responsible for day-to-day compliance activity will have the requisite specialized knowledge or broker-dealer compliance responsibilities under the federal securities laws and NYSE rules [5] The Commission believes that required knowledge of such additional compliance procedures exceeds the scope of the business activities of members and member organizations that generate income of less than $500,000 per year and that introduce all accounts to another broker-dealer.

The Commission finds good ause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof since the Series 14 examination is scheduled to be administered in fall 1989, and those individuals qualifying for exemption must be afforded advance notice of this rule change.

It is therefore ordered, pursuant to section 19(b)(2) [6] of the Act, that the

[1] The Compliance Official Qualification (Series 14) Examination is a qualification examination intended to insure that the individuals designated as having overall day-to-day compliance responsibilities for their respective firms or who directly supervise ten or more persons engaged in compliance activity have the knowledge, skill and abilities necessary to carry out their job responsibilities. *See* File No. SR–NYSE–87–10, approved by the Commission in Securities Exchange Act Release No. 25763, May 27, 1988, 53 FR 20925; NYSE Rule 342.13(b).

[2] The Exchange has defined a limited public business as generating public business income not in excess of $500,000 in a calendar year, and introducing all accounts to another broker/dealer.

[3] 15 U.S.C. 78f(c)(3)(B) (1982).

[4] *See* note 2, *supra.*

[5] *Id.*

[6] 15 U.S.C. 78s(b)(2) (1982).

proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Dated: October 11, 1989

Jonathan G. Katz,

Secretary.

[FR Doc. 89-24655 Filed 10-18-89; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-27359; File No. 4-208]

Joint Industry Plan; Notice of Filing of Amendments to the Intermarket Trading System Plan Relating to Boston Stock Exchange Regional Computer Interface, Pre-Opening Reports, Previous Day Consolidated Closing Price, and Third Participating Market Center Trade Throughs

The participants in the Intermarket Trading System ("ITS") on September 21, 1989, submitted copies of amendments to the restated ITS plan created pursuant to section 11A(a)(3)(B) of the Securities Exchange Act of 1934 ("Act") for the purpose of creating and operating an Intermarket Communication Linkage ("ITS Plan").[1] The amendments were submitted pursuant to Section 11A of the Act and Rule 11Aa3-2 thereunder.

I. Description of the Amendments

The purposes of the amendments to the ITS Plan are (A) to recognize the use of the "Regional Computer Interface" by the Boston Stock Exchange ("BSE") (Third Amendment); (B) to allow for pre-opening application to be based on the closing price on the New York Stock Exchange ("NYSE") or the Ameerican Stock Exchange ("Amex") in certain circumstances (Eighth Amendment); (C) to clarify that a specialist/market-maker who has sent a pre-opening response has a responsibility to seek a report of execution (Third Amendment); and (D) to clarify the procedures for resolving third participating market center trade-throughs (Third Amendment).

A. BSE—Regional Computer Interface (Third Amendment)

The proposed amendments to sections 1(33), 1(34A) and 1(34B) of the Plan recognize that the BSE will be utilizing the "Regional Computer Interface" ("RCI") as provided for in section 10(e) of the plan. Section 10(e), by its terms, provides that any participant shall be entitled to use one of the four standard automated interfaces upon approval by the Commisson of appropriate amendments to the ITS Plan recognizing such use.

Section 1(33) states "participant Switch" as applied to the BSE and the other regional exchanges means its regional switch. Section 1(34A) defines "RCI" as the "Regional Computer Interface," which is the automated linkage between the ITS and the Regional Switches that enable members located on the floor of the BSE and the other regional exchanges to participate in ITS applications. Furthermore, section 1(34B) defines "Regional Switch" as the computerized system of the BSE and the other regional exchanges which permits entry and receipt of the ITS system communications by means of CRT or other terminals, card readers and associated printers on the floors of the regional exchanges, as appropriate.

B. Pre-opening Application—Closing Prices (Eighth Amendment)

The proposed amendment to section 7(a) of the Plan allows for the pre-opening application to be based on the closing prices on the New York Stock Exchane or the American Stock Exchange in certain circumstances (Eighth Amendment). Section 7(a) of the Plan sets forth the substance of the pre-opening application, which sets out the procedures an exchange specialist who wishes to open his market in an ITS stock may use to obtain any pre-opening interest in that stock from other market-makers. Exhibit A to the Plan is a model rule that states the substance of section 7(a) and specifies other requirements pertaining to the "pre-opening application."

Section 7(a) and the model rule provide that if an exchange specialist anticipates that the opening transaction on the exchange will be at a price that represents a change from the security's previous day's consolidated closing price of more than the "applicable price change," he shall notify other participant markets by sending a pre-opening notification through the system. The "applicable price changes" are:

Security	Consolidated closing price	Applicable price change (more than)
Network A	Under $15	⅛ point.
	$15 or over	¼ point.
Network B	Under $5	⅛ Point.
	$5 or over	¼ point.

The amendment to section 7(a) deals with the occasional situation when a system problem will cause incorrect consolidated closing prices to be displayed in a participant market or markets. In these situations, the practices has been to guage "the applicable price change" from the Amex or NYSE closing prices, rather than on the consolidated closing prices. However, this substitution requires telephone consultation with, and the concurrence of, each of the ITS participant markets, usually just prior to the opening of trading.

As proposed, if, on a broad scale, consolidated closing prices are incorrectly displayed, the Chairman of the ITS Operating Committee, upon the request of the Amex or the NYSE, may designate that the Amex's or the NYSE's closing prices, as appropriate, be substituted for the purposes of the pre-opening application. The proposal provides a simple, efficient and timely means for accomplishing the substitution of closing prices.

A collateral amendment to section (a)(viii) of the model rule recognizes that each participant may designate that the Amex's or NYSE's last sales be substituted for consolidated closing prices in accordance with the Plan revision.

C. Pre-opening Application—Execution Reports (Third Amendment)

A second amendment to the model rule would add section (c)(vi) to make it clear that a specialist/market-maker who responds to a pre-opening notification has a responsibility to seek from the opening market-maker a report of participation in the opening.

The added section sets forth a basic responsibility to request a report if one is not promptly received following the opening. If a report is requested on or following the trade date, and a report is not received by 9:30 a.m. eastern time the following trading day, then a later-received report need not, but may, be accepted. If a report is not requested, a report must be accepted until 4:00 p.m. eastern time on the third day following the trade date. However, the section makes it clear that despite the provision for when a report is not requested, this provision is not intended to relieve the basic obligation to seek a report.

D. Trade-Through Rule (Third Amendment)

The last amendment is to sections (b)(3) (F) and (G) of Exhibit B ("Trade-Through Rule") and adds new section (b)(3)(H)(i). The purpose of this amendment is to clarify the procedures for resolving third participating market center trade-throughs (Third Amendment).

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[7] 17 CFR 200.30-3(a)(12) (1989).

[1] The ITS Plan and subsequent amendments are contained in File No. 4-208.

Section 8(d)(i) of the ITS Plan sets forth the substance of trade-through restrictions. A trade-through is the occurrence of a transaction in one participant market at a price inferior to the bid or offer in another participant market. Exhibit B to the Plan is a model Trade-Through Rule that sets forth the rights and obligations of members of the paticipant markets. The model rule generally provides that, upon receipt of a timely administrative message, the member who caused the trade-through is obligated to satisfy the bid or offer traded through. The rule also contains several exemptions to the obligations to satisfy a trade through.

An amendment to the model rule adds sections (b)(3)(H)(i) to provide another exemption to the satisfaction obligations of the Rule. The exemption provides that, if a member who initiates a "third participant market trade through" (as defined in the Rule) had sent a commitment to trade promptly following the trade-through to satisfy the bid or offer traded-through, and had preceded the commitment with an administrative message stating the the commitement was in satisfaction of the trade-through, then such member shall have no further obligation to satisfy the trade-through. The provision is intended to provide the receiving party with requisite information about the purpose of the commitment so that it can be properly acted on.

II. Implementation of the Amendments

The amendments set forth in paragraph IA shall be effective upon the later of (a) the execution of the Agreement by each of the participants and the approval of the amendments by the Commission or (b) such date as the BSE shall specify. The revisions discussed in IB to section 7(a) of the ITS Plan and to Exhibits A and B of the Plan will require that each participant adopt the uniform rule revisions included as part of the amendments as their own rules. The rest of the amendments shall be effective when each participant executes this Agreement and the Commission approves them.

III. Request for Comment

Interested persons are invited to submit written comments on the amendments. Persons submitting comments should file six copies with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions and related items, 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 Room, 450 Fifth Street, NW., Washington, DC. All communications should refer to File No. 4–208 and should be submitted by November 9, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority. 17 CFR 200.30–3(a)(29).

Dated: October 13, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–24690; Filed 10–18–89; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–17163; File No. 812–7391]

First Charter Life Insurance Co., et al.; Application for Exemption

October 12, 1989.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").

APPLICANTS: First Charter Life Insurance Company ("First Charter"); First Charter Variable Annuity Account ("Variable Account"); and CNL, Inc. ("CNL").

RELEVANT 1940 ACT SECTIONS: Exemption requested under section 6(c) from sections 26(a)(2) and 27(c)(2) of the 1940 Act.

SUMMARY OF APPLICATION: Applicants seek an order to permit them to issue flexible premium variable deferred annuity contracts that provide for the deduction of mortality and expense risk charges from the assets of the separate account attributable to the annuity contracts.

FILING DATE: The application was filed on September 15, 1989.

HEARING OR NOTIFICATION OF HEARING: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application or ask to be notified if the hearing is ordered. Any request must be received by the SEC by 5:30 p.m. on November 6, 1989. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request either personally or by mail, and also send it to the Secretary of the SEC, along with the proof of service by affidavit, or, in the case of an attorney at law, by certificate. Request notification of the date of the hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. First Charter Life Insurance Company, 315 Park Avenue South, New York, New York 10010.

FOR FURTHER INFORMATION CONTACT: Michael V. Wible, Staff Attorney, at (202) 272–2026, or Clifford E. Kirsch, Acting Assistant Director, at (202) 272–2061 (Division of Investment Management, Office of Insurance Products and Legal Compliance).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the Commission's Public Reference Branch in person or the Commission's commercial copier (800) 231–3282 (in Maryland (301) 258–4300).

APPLICANTS' REPRESENTATIONS:

1. The Variable Account was established by First Charter to fund variable deferred annuity contracts issued in the State of New York. The Variable Account is a unit investment trust registered with the Commission under the 1940 Act. Applicants have applied for the exemptive relief described herein in connection with a proposed issuance of certain flexible premium variable deferred annuity contracts ("Contracts") to be funded by the Variable Account.

2. The Variable Account has six Subaccounts, each of which invests exclusively in the shares of a Portfolio of the Scudder Variable Life Investment Fund (the "Fund"). The Fund is registered with the SEC as an open-end, diversified investment company.

3. CNL will serve as the principal underwriter of the Contracts. CNL has contracted with Scudder Fund Distributors, Inc. ("Scudder") for Scudder's services in connection with the distribution of the Contracts. Both CNL and Scudder are registered with the SEC as broker-dealers under the Securities Exchange Act of 1934, as amended, and are members of the National Association of Securities Dealers, Inc.

4. The Contracts are flexible premium variable deferred annuity contracts designed to provide for accumulation of capital on a tax-deferred basis for retirement or other long-term purposes. The Contracts initially will be made available only to individuals, and will not be available to retirement plans and individual retirement accounts that qualify for special Federal income tax treatment.

5. An amount will be deducted from the daily net asset value of the Variable Account attributable to the Contracts to reimburse First Charter for certain mortality and expense risks assumed under the Contracts. The mortality risk

assumed by First Charter arises from its contractual obligation to make Annuity Payments to each Annuitant regardless of how long all Annuitants or any individual Annuitant may live. Although Annuity Payments will reflect the investment performance of the shares purchased by each Subaccount of the Variable Account, they will not be affected by the mortality experience of persons receiving such payments or the general population. The expense risk assumed by First Charter is that the expenses incurred in issuing and administering the Contracts will be greater than estimated and, therefore, will exceed the expense charge limit set by the Contracts. This asset charge will be deducted daily in an amount equal to an effective annual rate of .70% of the average daily net assets of the Variable Account attributable to the Contracts. Of this amount, approximately .50% is charged to cover the mortality risks and approximately .20% is charged to cover expense risks. The rate of this charge is guaranteed never to increase, and is applicable only during the period from the Effective Date to the Maturity Date.

6. In addition to the deduction of a mortality and expense risk charge, First Charter will impose a contract administration charge at an annual rate of .30%, an annual record maintenance charge of $40, and may charge $20 for each transfer beyond the second request. No transfer charge is currently imposed. Also, no sales charges are deducted and no charge is currently made for premium taxes. All expenses relating to the sale of the Contracts will be paid by First Charter from its general assets.

7. Applicants do not concede the applicablity of sections 26(a)(2)(C) and 27(c)(2) of the Act to the mortality and expense risk charge. However, in order to avoid any possibility that questions may be raised as to the potential applicability of those provisions to this charge, Applicants request exemption from these provisions to the extent necessary to permit the assessment of a charge for mortality and expense risks against the assets of the Variable Account.

8. Applicants represent that the mortality and expense risk charge is a reasonable charge to compensate First Charter for the risk that the payees of Annuity Payments will live longer as a group than has been anticipated in setting the annuity rates guaranteed in the Contracts and for the risk that administrative expenses will be greater than the amounts derived from the administrative charge.

9. First Charter represents, in support of the request, that the charge of .70% for mortality and expense risks assumed by First Charter is within the range of industry practice with respect to comparable annuity products. This representation is based upon First Charter's analysis of publicly-available information about similar industry products, taking into consideration such factors as current charge levels, existence of charge level guarantees, and guaranteed annuity rates. First Charter represents that it will maintian at its Home Office and make available to the Commission, a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, its comparative survey made to support this representation.

10. Applicants acknowledge that to the extent First Charter's mortality experience and unreimbursed expenses are less than anticipated, the mortality and expense risk charge may be a source of profit, which would increase the general assets of the Company available to pay distribution, sales, and other expenses the Company must bear. Under such circumstances, the mortality and expense risk charge might be viewed as providing for some or all of the costs related to the distribution of the Contracts. First Charter cannot predict the amount of profit that may result from this charge. In fact, such a profit may not occur; in which case First Charter would still be required to pay all of the expenses relating to the sale and distribution of the Contracts. The fact that First Charter does not deduct a sales charge from Payments invested in the Contract or amounts paid upon full or partial surrender does not alter this fact. Thus, First Charter has concluded that there is a reasonable likelihood that the proposed distribution financing arrangements will benefit the Variable Account and Owners. The basis for this conclusion is set forth in a memorandum which will be maintained by First Charter at its administrative offices and will be available to the Commission.

11. Applicants also represent that the Variable Account will invest only in management investment companies which undertake, in the event such a company adopts a plan under Rule 12b–1 to finance distribution expenses, to have a board of directors (or trustees), a majority of whom are not interested persons of the company, formulate and approve any such plan under Rule 12b–1 of the 1940 Act.

12. Accordingly, Applicants request an exemption pursuant to section 6(c) from sections 26(a)(2) and 27(c)(2) to the extent necessary to permit the deduction of mortality and expense risk charges from the assets of the Variable Account attributable to the Contracts.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–24652 Filed 10–18–89; 8:45 am]

BILLING CODE 8010–01–M

File No. 500–1,

Order Modifying Prior Order Imposing Trading Suspension; Trading in the Securities of PCP Corp.

October 13, 1989.

On October 13, 1989 the Commission issued an Order suspending trading for a single 10 day period of sixteen issuers pursuant to section 12(k) of the Securities Exchange Act of 1934. It has since been determined that one of the companies listed in the Order, PCP Corp. had changed its name to CMS Holdings, Inc. The Commission has determined that it is appropriate to modify the order to reflect this name change.

Accordingly, *it is hereby ordered* that the Order entered on October 13, 1989 is modified by changing the name of PCP Corp. to CMS Holdings, Inc.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–24691 Filed 10–18–89; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–24967]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

October 12, 1989.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by November 6, 1989 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy

on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

National Fuel Gas Company (70–7674)

National Fuel Gas Company ("National"), 10 Lafayette Square, Buffalo, New York 14203, a registered holding company, has filed an application-declaration under sections 6(a), 7, 9(a), 10 and 12(c) of the Act and Rules 42 and 50(a)(5) thereunder.

National proposes to issue, from time to time through December 31, 1994, up to 1,250,000 shares of its authorized but unissued common stock, no par value ("Additional Common Stock"), to, or on behalf of, eligible employees of National and its subsidiaries, pursuant to three employee benefit plans.

National proposes to issue up to 1,000,000 shares of Additional Common Stock to Manufacturers Hanover Trust Company ("MHTC"), as trustee for two of the employee benefit plans. These two plans, which are intended to qualify under Sections 401(a) and 401(k) of the Internal Revenue Code of 1986, are the National Fuel Gas Company Tax-Deferred Savings Plan and the National Fuel Gas Company Tax-Deferred Savings Plan for Non-union Employees. National proposes to issue such Additional Common Stock to MHTC (500,000 shares to each of the two plans), from time to time, in lieu of making cash employer contributions ("Matching Contributions") used by MHTC to purchase National's common stock on the open market. In the alternative, National proposes to contribute, from time to time, cash Matching Contributions to MHTC, which would then be paid to National to purchase Additional Common Stock. National would retain the right to continue such proposed practices or revert to the current practice of contributing cash Matching Contributions to MHTC for its use in purchasing National's common stock on the open market. If National issues shares of Additional Common Stock to MHTC as Matching Contributions, or in the alternative, cash Matching Contributions are paid by MHTC to National to purchase Additional Common Stock, the value of such shares will be determined by averaging the daily high and low sales prices of common stock on the New York Stock Exchange ("NYSE"), on the date of issue, or the next preceding trading date if the NYSE is not open for trading, or no shares of National's common stock were traded on that date.

National also proposes to issue up to 250,000 shares of Additional Common Stock to persons eligible to receive awards under the National Fuel Gas Company Incentive Compensation Plan ("ICP"). Pursuant to the ICP, once the dollar amount of awards is determined, tax withholding will be implemented, and the remainder will be converted into whole shares of Additional Common Stock using the average market price in effect on the first trading date in December on which shares of National's common stock are sold. Any amount that cannot be converted into whole shares of common stock, will be paid by check. National further proposes to purchase, from time to time, shares of its common stock on the open market for awardees pursuant to the ICP, in lieu of issuing Additional Common Stock. National states that such shares of National's common stock, plus cash for fractional shares, will be issued to awardees, each December, beginning December 1989.

Entergy Corporation, et al. (70–7681)

Entergy Corporation ("Entergy"), a registered holding company, 225 Baronne Street, New Orleans, Louisiana 70112, and its wholly owned electric public-utility subsidiary company, Arkansas Power & Light Company ("AP&L"), 425 W. Capitol Street, Little Rock, Arkansas 72203, have filed an application-declaration under sections 9(a), 10, 12(c) and 12(d) of the Act and Rules 42 and 43 thereunder.

AP&L proposes to purchase from Entergy, from time-to-time through December 31, 1990, up to $100 million of AP&L's outstanding common stock, par value $.01 per share, at a purchase price equal to $12.50 per share, in order to reduce the amount of common equity in AP&L's capital structure from approximately 40 percent to approximately 35 percent. AP&L's capital structure would also include approximately 10 percent of preferred stock and approximately 55 percent of long-term debt. A reduced level of common equity would serve to lower AP&L's overall cost of capital given the higher cost of equity capital as opposed to debt. AP&L would fund the purchase of its stock from available cash or from the proceeds of short-term borrowings effected under available bank lines of credit, or through the Entergy system money pool.

Entergy Corporation (70–7682)

Entergy Corporation ("Entergy"), 225 Baronne Street, New Orleans, Louisiana 70112, a registered holding company, has filed an application-declaration under sections 9(a), 10, and 12(c) of the Act and Rule 42 thereunder.

Entergy seeks authority to acquire for its own account up to 20,458,109 shares of its currently issued and outstanding common stock, par value $5.00 per share ("Common Stock"), in negotiated or open market transactions or through tender offers from time-to-time through December 31, 1991. At August 31, 1989, Entergy had 204,581,092 shares of common stock issued and outstanding. Assuming Entergy's acquisition of the entire 20,458,109 shares of Common Stock, as of August 31, 1989, Entergy's consolidated common equity ratio to total capitalization would have been reduced from 42.3 percent to 40.1 percent.

Repurchases of Entergy's Common Stock will be made in accordance with the requirements of Entergy's Restated Articles of Incorporation and the Florida General Corporation Act. Repurchases of Common Stock will be made from general corporate funds.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–24653 Filed 10–18–89; 8:45 am]

BILLING CODE 8010–01–M

SELECTIVE SERVICE SYSTEM

Agency Forms Submitted to the Office of Management and Budget for Extension of Clearance

The following forms have been submitted to the Office of Management and Budget (OMB) for extension of clearance in compliance with the Paperwork Reduction Act (44 U.S. Chapter 35):

SSS Form No. and Title:

SSS Form 152, Alternative Service Employment Agreement
SSS Form 153, Employer Data Sheet
SSS Form 156, Skills Questionnaire
SSS Form 160, Request for Overseas Job Assignment
SSS Form 163, Employment Verification Form
SSS Form 164, Alternative Service Worker Travel Reimburesement Request

SSS Form 166, Claim for Reimbursement For Emergency Medical Care

Copies of the above identified forms can be obtained upon written request to: Selective Service System, Reports Clearance Officer, Washington, DC 20435.

No changes have been made to the above identified forms. OMB clearance is limited to requesting a three year extension of the current expiration dates.

Written comments should be sent within 60 days after the publication of this notice, to: Selective Service System, Reports Clearance Officer, Washington, DC 20435.

Send a copy of the comments to: OMB Reports, Management Branch, New Executive Office Building, Room 33208, Washington, DC 20503.

Dated: October 11, 1989.

Samuel K. Lessey Jr.,

Director.

[FR Doc. 89-24678 Filed 10-18-89; 8:45 am]

BILLING CODE 8015-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Denial of Motor Vehicle Defect Petition

This notice sets forth the reasons for the denial of a petition submitted to NHTSA under section 124 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (15 U.S.C. 1381 *et seq.*).

Mr. William F. Casey Jr., submitted a petition dated June 6, 1989, requesting NHTSA to investigate alleged unreliability of the fuel system in Volvo Passenger vehicles. The petitioner cited, "* * * serious unresolved questions and doubt on the reliability and safety of the overall fuel system used on Volvo 240 model vehicles * * *." He contends that the subject vehicle is "prone to sudden unexpected vehicle decelaration" resulting from a fuel system failure or malfunction. He cites the possibility of accidents resulting form the alleged problem.

The petitioner supports his contention with a "Risk Factor Analysis" derived from his private survey of other Volvo owners and with a list of Volvo service bulletins and letters relating to diagnostic procedures and the introduction of various revised or updated fuel system components.

Analysis of the agency's computerized consumer complaint records for the 1987 Volvo 240 vehicle disclosed 42 reports related to alleged vehicle stalling. Seven are from the petitioner. The remaining 35 reports are pre-printed inquiry form letters to ODI. They were distributed to Boston area Volvo owners by an unknown source. Except for three complaints these reports do not cite stalling problems. Agency review of the petitioner's repair orders and of information from the manufacturer disclosed that three unrelated repairs were performed. The manufacturer, in its August 23, 1989, response to NHTSA inquiry, reported receiving five reports relating to vehicle driveability or stalling, including the complaint from the petitioner. The manufacturer reported that, * * * there are no accidents, subrogation claims or lawsuits pertaining to the alleged defect in the subject vehicle known to Volvo."

The petitioner provided a NHTSA-supplied list of Volvo service bulletins. The petitioner referred to those bulletins which described improved fuel pumps and related fuel system components and questioned why his vehicle was not "recalled" for updating with the improved items. Agency examination of the bulletins revealed no evidence that the problems being corrected by the described product improvements are safety-related.

The petitioner also provided an analysis of the results of his Volvo owner survey. He did not provide a sample of the survey or the list of owners sampled or how they were selected. His "risk analysis" purports to show the existence of safety problems in the subject fuel system. The petitioner provided no evidence of actual accidents, injuries, or fatalities to support his contentions.

The petitioner has previously been advised by this agency that it is authorized to order manufacturer to recall and repair vehicles or items of equipment when its investigation indicates that the vehicle or item of equipment contains a safety-related defect. A safety-related defect is present when there is evidence of a significant number of failures and these failures present an unreasonable risk of accident, injury or fatality. He was further advised that the agency cannot act on isolated problems or disputes between individual owners and dealers or manufacturers.

In consideration of the available information, the agency concludes that there is not a reasonable possibility that an order concerning the notification and remedy of a safety-related defect in relation to the alleged fuel system problems would be issued at the conclusions of an investigation. Because the information the agency gathered in the review it conducted in response to this petition reveals no safety-related defect trend, further commitment of resources to determine whether such a trend may exist does not appear to be warranted. Therefore, the petition is denied.

Authority: Sec. 124, Pub. L. 93-492; 88 Stat 1470 (15 U.S.C. 1410a); delegations of authority at 49 CFR 1.50 and 501.8.

Issued on October 13, 1989.

George L. Parker,

Associate Administrator for Enforcement.

[FR Doc. 89-24647 Filed 10-18-89; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. IP 89-05; Notice 2]

Grant of Petition for Determination of Inconsequential Noncompliance; Grumman Olson

This notice grants the petition by Grumman Olson of Sturgis, MI., to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for an apparent noncompliance with 49 CFR 571.101, Federal Motor Vehicle Safety Standard (FMVSS) No. 101, *Controls and Displays.* The basis of the grant is that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published on July 31, 1989, and an opportunity afforded for comment (54 FR 31609).

Prior to 1987, Standard No. 101 specified an identification symbol for the headlamp control. Beginning in 1987, a master light switch control symbol is now required by Standard No. 101 when one control activates multiple lighting systems (*i.e.*, headlamps, taillamps, clearance lamps). Grumman Olson used the old headlamp control identification symbol in 2,100 walk-in vans mounted on Ford E-305 stripped chassis in 1987, 1988, and 1989. Therefore, these vehicles are not in compliance with Standard No. 101.

Grumman Olson supported its petition for inconsequential noncompliance with the following reasons:

"1. The light switch is identified by the old symbol which was required in 1980 and allowed until 1987.

2. Since the symbol has been in use for seven years it is recognized as the light switch.

3. These types of vehicles are generally used in fleets which have a mixture of old and new trucks. The old trucks would contain the old symbol. Therefore, drivers would be familiar with it and understand that it denotes the light switch in new vehicles."

No comments were received on the petition.

Before 1987, the headlamp symbol designated both a control that operated the headlamps alone, and a control that operated headlamps, clearance, side marker, and identification lamps. The symbol used by the petitioner met the need for motor vehicle safety until it was superseded by one that is more expressive of a control for the operation of multiple lamps. The previous symbol was in use for many years, and those familiar with it will know that it also indicated multiple lamp operation. The only possible confusion that could occur would involve a driver who had had experience only with vehicles manufactured since 1987, familiar with the master lighting control, but not with the fact that previously the headlamp symbol was used for both types of controls. However, if such a driver exists, the fact that other controls are identified should lead him by a process of elimination to the realization that the erroneous headlamp control symbol indicates a master lighting switch.

Accordingly, petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and its petition is granted.

Authority: 15 U.S.C. 1417; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.

Issued: October 13, 1988.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 89-24648 Filed 10-18-89; 8:45 am]

BILLING CODE 4910-59

Denial of Motor Vehicle Defect Petition

This notice sets forth the reasons for the denial of a petition submitted to NHTSA under section 124 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (15 U.S.C. 1381 *et seq.*).

On June 21, 1989, Mr. and Mrs. Daniel Sicardi requested NHTSA to conduct a defect investigation into a safety problem involving an alleged steering defect in certain 1988 Chevrolet Celebrity vehicles manufactured by General Motors Corporation (GM).

The petitioners allege that a 1988 Chevrolet Celebrity vehicle owned by them went out of control due to failure of the steering. They allege that as a result of this failure, the vehicle went over a highway divider into oncoming traffic, causing damage to the front wheel, fender, and suspension. There were no other vehicles involved and there were no injuries. Following this incident, they drove the vehicle to a shop where repairs were made for damage caused by the accident.

There was one recall (88V-048) of certain 1988 Chevrolet Celebrity vehicles for steering problems. In that recall, the engine cradle assembly was replaced to correct a defective weld which attaches the front suspension lower control arm mounting bracket to the engine cradle. GM advised that if this failed while the vehicle was in motion, it could result in loss of steering control. It does not appear that the cradle assembly failed on the Sicardi vehicle because there is no indication on the repair orders provided by the Sicardis that the engine cradle was replaced.

Analysis of the Office of Defects Investigation (ODI) computer records revealed no reports of failures, other than the Sicardis, of the steering system in 1988 GM A-Body vehicles, which includes the Chevrolet Celebrity, for reasons consistent with the Sicardis' experience. Since no safety-related defect trend was discovered, further commitment of resources to investigate the alleged defect does not appear to be warranted. Accordingly, this petition was denied.

Authority: Sec. 124, Pub. L. 93-492; 88 Stat. 1470 (15 U.S.C. 1410a); delegations of authority at 49 CFR 1.5 and 501.8.

Issued on: October 13, 1989.

George L. Parker,

Associate Administrator for Enforcement.

[FR Doc. 89-24646 Filed 10-18-89; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular—Public Debt Series—No. 28-89]

Treasury Notes, Series H-1996

Washington, October 12, 1989.

The Secretary announced on October 11, 1989, that the interest rate on the notes designated Series H-1996, described in Department Circular—Public Debt Series—No. 28-89 dated October 5, 1989, will be 8 percent. Interest on the notes will be payable at the rate of 8 percent per annum.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 89-24613 Filed 10-18-89; 8:45 am]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 54, No. 201
Thursday, October 19, 1989

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).

BLACKSTONE RIVER VALLEY NATIONAL HERITAGE CORRIDOR COMMISSION

Notice is hereby given in accordance with section 552b of Title 5, United States Code, that a meeting of the Blackstone River Valley National Heritage Corridor Commission will be held on Saturday, October 21, 1989.

The Commission was established pursuant to Public Law 99-647. The purpose of the Commission is to assist federal, state and local authorities in the development and implementation of an integrated resource management plan for those lands and waters within the Corridor.

The meeting will convene at 10:30 a.m. at Jenkes Country Store, Main Street (Route 16) Douglas, MA for the following reasons:

1. To vote on approval of the Cultural Heritage and Land Management Plan.
2. Budget submission of final budget for FY 1989.

It is anticipated that about twenty people will be able to attend the session in addition to the Commission members.

Interested persons may make oral or written presentations to the Commission or file written statements. Such requests should be made prior to the meeting to: James Pepper, Executive Director, Blackstone River Valley National Heritage Corridor Commission, P.O. Box 34, Uxbridge, MA 01569. Telephone (508) 278-9400 or (508) 278-5124.

Further information concerning this meeting may be obtained from James Pepper, Executive Director of the Commission at the address below.

James Pepper,

Executive Director, Blackstone River Valley National Heritage Corridor Commission.

[FR Doc. 89-24771 Filed 10-17-89; 9:29 am]

BILLING CODE 4310-70-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:05 p.m. on Thursday, October 12, 1989, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following:

Administrative enforcement proceedings.

Recommendations regarding the liquidation of a depository institution's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 47,442
Various Knoxville Banks, Knoxville Consolidated Office
Case No. FL-89-005
Silverado Banking, Savings & Loan Association, Denver, Colorado

Reports of the Inspector General:

Audit Report re: Audit of Knox Reports Limited, DOL Knoxville Consolidated Office (Memo dated August 14, 1989)
Audit Report re: Costa Mesa Consolidated Office, Cost Center—601 (Memo dated August 22, 1989)
Audit Report re: Knoxville Consolidated Office, Cost Center—503 (Memo dated August 15, 1989)
Audit Report re: Oak Lawn Consolidated Office, Cost Center—201 (Memo dated August 8, 1989)
Audit Report re: Operational Audit of the FDIC's Training Program (Memo dated August 12, 1989)

Matters relating to the Corporation's corporate activities.

Memorandum and resolution regarding the cross-guaranty provisions of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Director M. Danny Wall and Chairman L. William Seidman, (Director of the Office of Thrift Supervision), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550 17th Street, NW., Washington, DC.

Dated: October 16, 1989.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 89-24831 Filed 10-17-89; 12:44 pm]

BILLING CODE 6714-01-M

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, October 24, 1989, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.
Audits conducted pursuant to 2 U.S.C. 437g. § 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Thursday, October 26, 1989, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of Dates for Future Meetings.
Correction and Approval of Minutes.
Draft Advisory Opinions:
A. Draft AO 1989-20:
Bruce C. Bigelow on behalf of Kuilima Development Co., Inc.
B. Draft AO 1989-22:
H. Daniel Holm, Jr. on behalf of Nagle Campaign
Status of Presidential Audits
Administrative Matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, Telephone: (202) 376-3155.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 89-24807 Filed 10-17-89; 10:58 am]

BILLING CODE 6715-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 10:00 a.m., Wednesday, October 25, 1989.

PLACE: MARRINER S. ECCLES FEDERAL RESERVE BOARD BUILDING, C STREET ENTRANCE BETWEEN 20TH AND 21ST STREETS, NW., WASHINGTON, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: October 17, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89–24873 Filed 10–17–89; 3:26 pm]

BILLING CODE 6210–01–M

FEDERAL TRADE COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, October 24, 1989.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580.

STATUS: Open.

MATTER TO BE CONSIDERED: Joint Presentation by the American Association of Advertising Agencies, the Association of National Advertisers, and the American Advertising Federation on the topic of Self-regulation.

CONTACT PERSON FOR MORE INFORMATION: C. Lee Peeler, Associate Director for Advertising Practices, (202) 326–3090.

Office of Public Affairs: (202) 326–2179.

Recorded Message: (202) 326–2711.

Donald S. Clark,

Secretary.

[FR Doc. 89–24820 Filed 10–17–89; 11:44 am]

BILLING CODE 6750–01–M

RESOLUTION TRUST CORPORATION

Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:55 p.m. on Thursday, October 12, 1989, the Board of Directors of the Resolution Trust Corporation met in closed session to consider matters relating to the resolution of certain depository institutions.

In calling the meeting, the Board determined, on motion of Director C. C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Chairman L. William Seidman, and M. Danny Wall (Director of the Office of Thrift Supervision), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, DC.

Dated: October 16, 1989.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Executive Secretary.

[FR Doc. 89–24770 Filed 10–17–89; 9:02 am]

BILLING CODE 6714–01–M

SECURITIES AND EXCHANGE COMMISSION

Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [54 FR 42619 October 17, 1989]

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Wednesday, October 11, 1989.

CHANGES IN THE MEETING: Rescheduling.

A closed meeting scheduled for Monday, October 16, 1989, at 2:30 p.m., has been changed to Wednesday, October 18, 1989, at 9:30 a.m.

Commissioner Schapiro, as duty officer, determined that Commission business required the above change.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Anthony Ain at (202) 272–2400.

Dated: October 16, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–24844 Filed 10–17–89; 1:46 pm]

BILLING CODE 8010–01–M

TENNESSEE VALLEY AUTHORITY

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 54 FR 42438 (October 16, 1989).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m. (EDT) Wednesday, October 18, 1989.

PREVIOUSLY ANNOUNCED PLACE OF MEETING: Tennessee Valley Authority (TVA), Knoxville Office Complex, 400 West Summit Hill Drive, Knoxville, Tennessee.

CHANGES IN THE MEETING: In addition to the October 18, 1989 meeting, the TVA Board will meet on October 17, 1989 at 2 p.m. in the TVA Knoxville Office Complex, 400 West Summit Hill Drive, Knoxville, Tennessee, to consider the agenda items listed below.

STATUS: Open.

Agenda Items

A—Budget and Financing

1. Proposed arrangements for early payment of up to approximately $6.7 billion of high interest TVA bonds held by the Federal Financing Bank.
2. Proposed agreements with Federal Reserve Banks to serve as fiscal agent and maintain certain accounts.
*3. Regulations relating to book-entry procedures for TVA power securities.
4. Proposed Second Amendatory Resolution to Basic Tennessee Valley Authority Power Bond Resolution to provide for use of book-entry procedures.
5. Proposed Third Amendatory Resolution to Basic Tennessee Valley Authority Power Bond Resolution providing for elimination at a future time of requirements for a trustee.
6. Proposed purchase agreement with the Federal Financing Bank covering arrangements for short-term power bond financing.
7. Proposed supplemental resolution authorizing Tennessee Valley Authority power bonds first short-term series.
8. Proposed underwriting agreement with the First Boston Corporation; Goldman, Sachs & Company; Merrill Lynch Capital Markets; Morgan Stanley & Company Inc.; and Salomon Brothers Inc., as representatives of the several underwriters.
9. Proposed Supplemental Resolution authorizing Tennessee Valley Authority Power Bonds.
10. Proposed Offering Circular and Proposed Offering Circular Supplement for TVA Power Bonds.
11. Proposed redemption prior to maturity of certain high-interest debt held by the Federal Financing Bank.
12. Proposed resolution authorizing Chairman and certain Tennessee Valley Authority Officers to take further actions relating to refinancing arrangements.

These items, which were listed as Items A4 through A15 in the previously announced agenda, will be deleted from the agenda of the October 18 meeting.

*Items approved by individual Board members. This would give formal ratification to the Board's action.

SUPPLEMENTARY INFORMATION: The TVA Board of Directors has found, the public interest not requiring otherwise, that TVA business requires that a meeting be called at the time set out above and that the previously announced agenda of the October 18 meeting be amended, and

that no earlier announcement of either of these actions was possible.

CONTACT PERSON FOR MORE INFORMATION: Alan Carmichael, Manager, Public Affairs, or a member of his staff can respond to requests for information about this meeting. Call (615) 632–8000 or 632–6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 479–4412.

William L. Osteen, Jr.,

Assistant Secretary and Associate General Counsel.

[FR Doc. 89–24783 Filed 10–17–89; 10:07 am]

BILLING CODE 8120–01–M

federal register

Thursday
October 19, 1989

Part II

Department of Labor

Mine Safety and Health Administration

30 CFR Parts 56, 57, 58, 70, 71, 72, 75, and 90

Air Quality, Chemical Substances, and Respiratory Protection Standards; Extension of Comment Period; Proposed Rule

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 56, 57, 58, 70, 71, 72, 75, and 90

RIN 1219-AA48

Air Quality, Chemical Substances, and Respiratory Protection Standards; Extension of Comment Period

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Extension of comment period.

SUMMARY: The Mine Safety and Health Administration (MSHA) is extending the period for public comment on the Agency's proposed rule revising existing standards for air quality and chemical substances at coal and metal/nonmetal mines. It contains permissible exposure limits for substances that may pose health hazards at these mines. In addition, the proposed rule contains revised requirements for exposure monitoring, carcinogens, and respiratory protection programs.

These actions are part of the Agency's ongoing review of metal/nonmetal and coal mine safety and health standards to improve protection for miners. The comment period was to remain open until November 27, 1989, but in response to requests from the mining community, MSHA is extending the comment period to March 2, 1990. All interested parties are encouraged to submit comments prior to this date.

DATES: Written comments must be received on or before March 2, 1990.

ADDRESSES: Send comments to the Office of Standards, Regulations and Variances; MSHA; Room 631; Ballston Tower No. 3; 4015 Wilson Boulevard; Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey; Director, Office of Standards, Regulations and Variances; MSHA; (703) 235-1910.

SUPPLEMENTARY INFORMATION: On August 29, 1989, (54 FR 35760) MSHA published a proposed rule revising existing standards for air quality and chemical substances at coal and metal/nonmetal mines. It contains permissible exposure limits for substances that may pose health hazards at these mines. In addition, the proposed rule contains revised requirements for exposure monitoring, carcinogens, and respiratory protection programs.

These actions are part of the Agency's ongoing review of metal/nonmetal and coal mine safety and health standards to improve protection for miners. The comment period was to remain open until November 27, 1989, but in response to requests from the mining community, MSHA is extending the comment period to March 2, 1990. All interested parties are encouraged to submit comments prior to this date.

Dated: October 16, 1989.

William J. Tattersall,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 89-24717 Filed 10-18-89; 8:45 am]

BILLING CODE 4510-43-M

federal register

Thursday
October 19, 1989

Part III

Department of Labor

Mine Safety and Health Administration

30 CFR 44 and 104

Rules of Practice for Petitions for Modification of Mandatory Safety Standards; Pattern of Violations; Public Hearings; Proposed Rule

DEPARTMENT OF LABOR

30 CFR Parts 44 and 104

Rules of Practice for Petitions for Modification of Mandatory Safety Standards; Pattern of Violations; Public Hearings

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice of public hearings.

SUMMARY: The Mine Safety and Health Administration (MSHA) will hold public hearings on its proposed regulations for rules of practice for petitions for modification of mandatory safety standards, and pattern of violations. Separate hearings will be held in Pittsburgh, Pennsylvania, and Denver, Colorado, for both petitions for modification of mandatory safety standards and pattern of violations. Each hearing will cover the major issues raised by comments submitted in response to the respective proposed rules.

DATES: All requests to make oral presentations for the record should be submitted at least 5 days prior to each hearing date. Such requests should be specific as for which proposal the presentation will be made. Immediately before each hearing, any unallotted time will be made available to persons making later requests.

The public hearings will be held at the following locations on the dates indicated:

November 1, 1989—Pittsburgh, PA.
November 8, 1989—Denver, CO.

The public hearings on the proposed regulations for rules of practice for petitions for modification of mandatory safety standards will begin on both dates at 9:00 a.m. The public hearings on pattern of violations will begin immediately following the conclusion of all testimony on the petition for modification rule. In each day, the pattern of violations hearing will continue on the following day if necessary.

ADDRESSES: The hearings will be held at the following locations:

November 1, 1989, Ramada Inn—Airport Ballroom C, 1412 Beers School Road, Coraopolis, Pennsylvania 15108.

November 8, 1989, Stouffer—Concourse Hotel, Ballroom, 3801 Quebec Street, Denver, Colorado 80207.

Send requests to make oral presentations to: Mine Safety and Health Administration; Office of Standards, Regulations and Variances; Room 631; 4015 Wilson Boulevard; Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey; Director, Office of Standards, Regulations and Variances; MSHA; Phone (703) 235–1910.

SUPPLEMENTARY INFORMATION: On May 5, 1989, MSHA published a proposed rule to revise its existing standards for rules of practice for petitions for modification of mandatory safety standards (54 FR 19492). The written comment period for this proposed rule ended on August 7, 1989.

On May 30, 1989, MSHA proposed criteria and procedures for identifying mines with a "pattern of violations" of mandatory standards that significantly and substantially contribute to safety or health hazards (54 FR 23156). The proposed rule would implement section 104(e) of the Federal Mine Safety and Health Act of 1977 (Mine Act). The written comment period for this proposed rule ended on August 31, 1989.

In the comments on the proposed rules, MSHA received requests for public hearings. The purpose of the public hearings is to receive relevant comments and respond to questions about the proposed rules. The hearings will be conducted in an informal manner by a panel of MSHA officials. Although formal rules of evidence will not apply, the presiding official may exercise discretion in excluding irrelevant or unduly repetitious material and questions.

Each session will begin with an opening statement from MSHA followed by an opportunity for members of the public to make oral presentations. During these presentations, the hearing panel will be available to answer relevant questions. At the discretion of the presiding official, speakers may be limited to a maximum of 20 minutes for their presentations. Time will be made available at the end of the hearings for rebuttal statements. Verbatim transcripts of the proceedings will be taken and made a part of the rulemaking record. Copies of the hearing transcripts will be made available for review by the public.

MSHA will also accept additional written comments and other appropriate data from any interested party, including those not presenting oral statements. Written comments and data submitted to MSHA will be included in the rulemaking record. To allow for the submission of any post-hearing comments, the record will remain open until December 8, 1989.

Issues

Commenters questioned a number of provisions contained in the proposals. However, some portions of the rules raised issues of particular concern, which are discussed below. MSHA will specifically address these issues at the public hearings on each of the respective rules and solicit comments on them in addition to any other aspects of the proposed rules.

A. Rules of Practice for Petitions for Modification of Mandatory Safety Standards

This proposal would add timeframes for consideration of petitions at all stages of review. After a petition is filed, the proposal would require an investigation to be conducted by MSHA and, as soon as is practicable, would require the appropriate MSHA administrator to issue a draft proposed decision and order (PDO). The draft PDO would allow the parties to comment on the Administrator's decision before a final decision is issued. Several commenters suggested that the words "as soon as practicable" be deleted and be replaced with "within 30 days," stating that all parties, including the Administrator, should be bound by specified periods of time to respond. One commenter was opposed to the issuance of a draft PDO. The commenter stated that this step would only add additional time delays to the process, delaying the enhanced safety that results from a final decision on the petition. Another commenter agreed with the inclusion of the draft PDO but expressed concern that the procedures regarding requests for expedited or extended investigations and waivers of a draft PDO raises numerous questions as to timeframes.

Under the proposal, 45 days after the close of the comment period on the draft PDO, the Administrator would be required to issue a final PDO. As under the existing rules, if no hearing is requested in the 30 days after the PDO is issued, it becomes final. If a hearing is requested, the case file would be required to be referred "immediately" to the Chief Administrative Law Judge for the Department of Labor. One commenter suggested that "immediately" be deleted and be replaced with "within 5 days," giving the Administrator an explicit timeframe to meet.

A new provision would require the Chief Judge to designate an administrative law judge (ALJ) to preside over the hearings within 5 days after receipt of the case file. Commenters agreed with the established timeframe; however, one commenter felt that it would be appropriate to limit the time during which the hearing would be held and a decision issued and served on the parties involved. The commenter

stated that to establish a deadline for starting the hearing and ALJ decision process is unless without a similarly precise deadline for ending the process.

The proposal would allow 45 days for discovery, after which a hearing would be scheduled by the ALJ as soon as practicable. One commenter stated that 45 days is an unrealistic time period. Another commenter opposed the language "as soon as practicable," stating that the review process could be further streamlined and shortened by eliminating these statements.

Following the hearing, parties would have 30 days to submit proposed findings and briefs to the ALJ. One commenter had no objection to changing the time from 20 days to 30 days; however, the commenter questioned when the 30-day period would begin. Does it start from the close of the hearing or from receipt of the transcript? Within 60 days after briefs are filed, the ALJ would be required to render a decision. One commenter questioned what would happen if the ALJ missed the 60-day deadline. Another commenter felt that such a timeframe might put pressure on the ALJ to keep the record small and would make the judge reluctant to consider evidence regarding all aspects of a proposed modification.

Under the proposal, an appeal of a petition would be filed with the Secretary. Thus, in each petition proceeding, MSHA would issue only one decision—the Administrator's. Commenters are opposed to the final decision's being made by the Secretary versus the Assistant Secretary who now makes such decisions. They stated that the Assistant Secretary could be properly independent, better experienced and more available to resolve such a dispute. The expertise necessary to fully evaluate the facts and prescribe appropriate conditions to safeguard the miners resides within MSHA, not with the DOL Solicitor's Office. Removal of the decisionmaking process from those MSHA officials best suited to provide the decision may actually diminish the health and safety of the miners.

The proposal would also delete existing procedures in § 44.16 for applications for interim relief. However, the proposal does permit the Administrator to give immediate effect to a PDO in contested cases. This relief, which would be granted only after issuance of a PDO, would be effective only until superseded by the decision and order itself, or until the PDO is contested. An application for relief under this aspect of the proposal would be required to include a good faith representation that no party is expected to contest the PDO. One commenter suggested that an application for such relief should be filed with the Administrator with copies sent to the miners' representative and any other parties to the proceedings. The commenter further suggested that the applicant be required to stipulate how delaying the effective date of the PDO for 30 days would unnecessarily disrupt mining, cause dislocation of a workforce, or otherwise unduly injure the interest of the parties to the petition process. One commenter expressed concern that a mine operator could make a good faith representation that a party is not expected to contest, have a decision granted and make major operational changes to implement the PDO, only to then have another party allege in good faith that new facts have become known and request a hearing. The first party would then be operating in a manner contrary to the mandatory standard, and MSHA would be compelled to issue a closure order on the affected portion of the operation.

B. Pattern of Violations

The proposal prescribes the criteria and procedures used by MSHA to determine whether a pattern of violations exists at a mine for purposes of section 104(e) of the Federal Mine Safety and Health Act of 1977 (Act). It addresses mines where operators habitually allow the recurrence of violations of mandatory safety or health standards which significantly and substantially (S&S) contribute to the cause and effect of mine safety or health hazards.

Commenters expressed concern that the language in the proposal is too broad and would encompass a greater portion of the mining community than was intended by Congress in the Mine Act. They suggested that the rule should be more narrow and limited to recalcitrant mine operators who have "thumbed their noses at the law."

The initial screening section of the proposed rule describes the review process MSHA would use to initially select mines for evaluation for a pattern of violations under § 104.3. One commenter stated that the annual review of the compliance records would be too long and suggested it be changed to biannual. Commenters stated that the proposed rule simply sets out a list of factors which are to be considered by the agency in deciding whether a pattern of violations exists at a particular mine and suggested that there should be a more objective quantitative approach using comparative statistical analysis to define a pattern. Commenters are also concerned that there is no criteria provided for the inspectors to use to determine which violations are S&S. Since the primary criteria being used to determine a pattern of violations are S&S violations, commenters feel there should be a definition for S&S violations in the rule and that it be defined as it was by the Review Commission in the National Gypsum case. Commenters also suggested that only S&S violations which are associated with more than a degree of ordinary negligence be considered. Commenters stated that if MSHA uses past history as part of the initial screening, the time period should be limited to 2 years. One commenter suggested that if MSHA can use retroactive selection criteria, then the operators should be granted retroactive appeal rights to challenge the S&S provision of all applicable violations. Several commenters suggested that only S&S citations issued after the effective date of the rule be considered in the initial screening to determine a pattern of violations. Commenters suggested that the only 107(a) orders that should be used in the pattern development are those that are accompanied by a 104(a) S&S citation. Commenters suggested that accidents, illnesses and injuries should not be a part of the criteria for initial screening unless there is a direct relationship between the S&S violations and the accident.

The proposal would allow only final citations and orders to be used to identify mines with a potential pattern of violations. Commenters were in agreement with this new provision. However, commenters felt that an additional provision should be added that would only include final citations and orders that are issued after the effective date of this rule. Commenters stated that they would have contested past citations and orders for S&S violations if they had known the violations could ultimately contribute to a "pattern" finding.

The proposal provides notification procedures which would provide both the mine operator and miners' representatives an opportunity to respond to the Agency's evaluation that a pattern of violations may exist at a mine. Commenters suggested that the identification and evaluation must be done on a national level as opposed to the district level and suggested that "District Manager" be replaced with "Administrator" in this section. They stated that Congress intended that the sanctions be applied to those few mine operators who repeatedly thumb their noses at the law, and this can only be achieved on a national level. Commenters further suggested that, due

to the profound effect that the pattern violator status could have on an operator's ability to continue to mine, the final determination should be rendered by the Assistant Secretary. Commenters suggested that, because the sanctions associated with a pattern of violations notice are severe, the procedures leading to the issuance of a notice should be fair and should provide all parties with ample time to make their points. Specifically, an opportunity for a hearing should be provided before the pattern of violations notice is issued but after the district manager conference has been held. One commenter suggested that the proposal include criteria to specify how MSHA would determine whether a program has effectively reduced the occurrence of S&S violations. The commenter further noted that although the proposal requires the district manager to submit a report if a potential pattern of violation exists at the mine, it does not require a report if the operator's program has effectively reduced the occurrence of S&S violations. The commenter stated that a report should be required in such instances. One commenter suggested allowing a conference with the Assistant Secretary before a final determination is made. This would provide all interested parties the opportunity to arrive at an agreement to improve the health and safety at the mine. Another commenter stated that while the proposed procedures, with extended timeframes, appear properly designed to facilitate due process, an opportunity to appeal the issuance of the notice should also be provided.

The proposal also provides procedures for termination of a pattern notice. Commenters are concerned that the only way a pattern of violations notice can be terminated is when an inspection of the entire mine by MSHA results in no S&S violations. Commenters suggested that the notice be terminated when an inspection by MSHA results in no S&S violations in the area of the mine involved in the pattern. Commenters further suggested that only S&S violations of the same standard should be used in a determination not to terminate a pattern of violations notice. Commenters also suggested that district managers should be allowed to terminate pattern of violation notices when mitigating circumstances are present.

One commenter does not feel that mine operators should be afforded the opportunity to use partial inspections to avoid full abatement of S&S violations in the entire mine, stating that the existence of S&S violations is not a normal and acceptable situation in any mine. The commenters stated that operators under notice cannot claim that they should still be allowed to have some S&S violations in order to remain equivalent with operators that have never been pattern violators. Another commenter stated that conditions in an underground mine change rapidly and suggested that the length of time for a series of partial inspections be limited to 30 days. Other commenters agreed with the new provision of partial inspections; however, they feel that mine operators should have the right to request personnel from a different field or district office to perform the final inspection from those that performed the initial inspection.

Commenters are concerned that the cost of the proposal is inaccurate. Several commenters believe that MSHA failed to include the additional cost of litigation. They stated that the potential litigation costs of citations and orders may be staggering. These same commenters suggested that many operators in the past only weighed the cost of appeal against the payment of the fine and accepted the significant and substantial check off rather than go through the long and costly process of appeal. Many believe that if such action ultimately contributes to a "pattern" finding, many significant and substantial citations would have been contested.

Dated: October 16, 1989.

William J. Tattersall,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 89-24716 Filed 10-18-89; 8:45 am]

BILLING CODE 4510-43-M

federal register

Thursday
October 19, 1989

Part IV

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Part 31
Federal Acquisition Regulation (FAR); Superfund Tax; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 31

Federal Acquisition Regulation (FAR); Superfund Tax

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are proposing to revise FAR 31.205–41 to set out a rule on the allowability of the Superfund Tax.

DATE: Comments should be submitted to the FAR Secretariat at the address shown below on or before December 18, 1989 to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW., Room 4041, Washington, DC 20405. Please cite FAR Case 89–71 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Margaret A. Willis, FAR Secretariat, Room 4041, GS Building, Washington, DC 20405, (202) 523–4755. Please cite FAR Case 89–71.

SUPPLEMENTARY INFORMATION:

A. Background

The Councils are proposing a rule, for purposes of cost recognition under Government contracts, which categorizes the "Superfund Tax" as allowable. The Councils believe that the Government should recognize this cost as a matter of public policy.

B. Regulatory Flexibility Act

The proposed FAR 31.205–41 coverage is not expected to have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C., 601 et seq.) because most contracts awarded to small entities are awarded on a competitive fixed-price basis and the cost principals do not apply. An Initial Regulatory Flexibility Act analysis has therefore not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected FAR subpart will also be considered in accordance with section 610 of the Act. Such comments must be submitted separately and must cite section 89–610 (FAR Case 89–71) in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping, reporting, or information collection requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, et seq.

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: September 12, 1989.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, it is proposed that 48 CFR part 31 is amended as set forth below:

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

1. The authority citation for 48 CFR part 31 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

2. Section 31.205–41 is amended by adding paragraph (a)(4) to read as follows:

31.205–41 Taxes.

(a) * * *

(4) The Environmental Tax found at section 59A of the Internal Revenue Code, also called the "Superfund Tax."

* * * * *

[FR Doc. 89–24725 Filed 10–18–89; 8:45 am]

BILLING CODE 6820–JC–M

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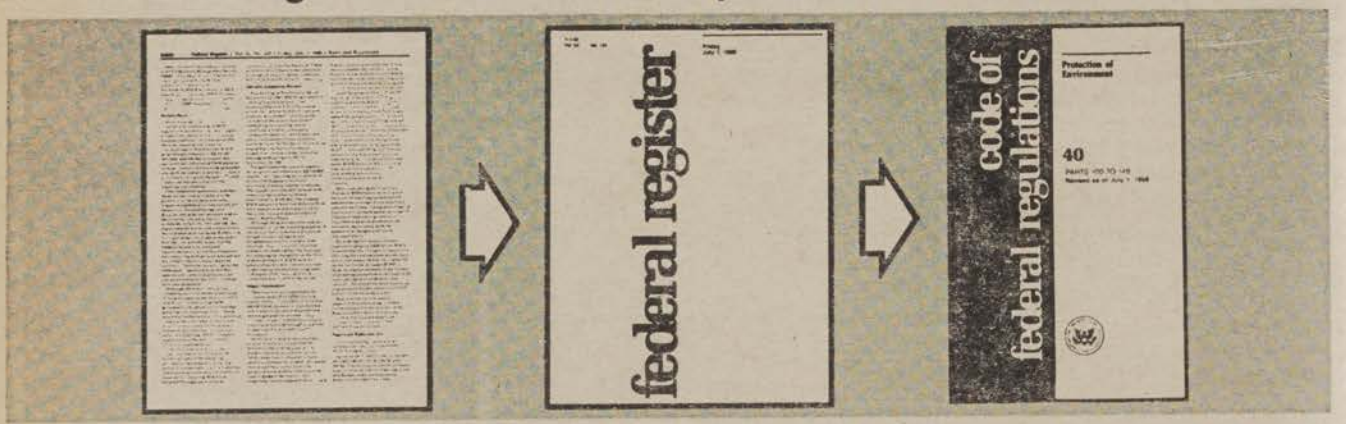
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