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Reader Aids
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CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register
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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Ch. I

OFFICE OF GOVERNMENT ETHICS

5 CFR Ch. XVI

RIN's 3206-AD71; 3206-AD72

Establishment of New Chapter XVI and Transfer Thereto and Redesignation of Certain Regulations From Chapter I of 5 CFR

AGENCIES: Office of Government Ethics and Office of Personnel Management.

ACTION: Final rule.

SUMMARY: By this document, the Office of Government Ethics ("OGE" or "Office") established chapter XVI in title 5 of the Code of Federal Regulations for publication of its rules, regulations and policy statements. The Office, formerly part of the Office of Personnel Management, is now a separate agency in the executive branch of the government. OGE was made an executive agency by Public Law 100-598, amending the Ethics in Government Act. OGE is also transferring and redesignating, with the concurrence of the Office of Personnel Management, certain regulations concerning executive branch government ethics which have appeared at chapter I of title 5, Code of Federal Regulations.

EFFECTIVE DATE: December 5, 1989.

ADDRESSES: Any comments on this document may be sent to: The Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington, DC 20005-3917, Attention: Mr. Gressman, Office of the General Counsel; as well as to the Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415, Attention: Mr. Rick, Office of the General Counsel.

FOR FURTHER INFORMATION CONTACT: William E. Gressman, Office of the General Counsel, Office of Government Ethics, telephone (202/FTS) 523-5757; or Stuart D. Rick, Office of the General Counsel, Office of Personnel Management, telephone (202/FTS) 632-5030.

SUPPLEMENTARY INFORMATION:

A. Substantive Discussion

Establishment of a New Chapter XVI of 5 CFR

The 1988 reauthorization legislation for the Office of Government Ethics provided for the Office to become a separate executive agency of the United States government effective on October 1, 1989. See sections 3 and 10 of Public Law 100-598 (November 3, 1988, 102 Stat. 3031, 3055) amending section 401 of the Ethics in Government Act of 1978, 5 U.S.C. appendix IV, 401. Previously, OGE was a part of the Office of Personnel Management. In conjunction with its new separate agency status, the Office of Government Ethics is hereby establishing a new chapter XVI of title 5, Code of Federal Regulations. Chapter XVI will contain OGE's substantitive and procedural regulations as well as appropriate policy statements of the Office.

Table of Contents

The table of contents for chapter XVI, set forth below, includes certain current regulations of the Office which have been codified in 5 CFR chapter I which are being redesignated. In addition, the table includes some of the part titles which OGE intends to issue as soon as practical; these are shown as reserved parts. Additional titles, both substantive and procedural, will be added as needed in the future by publication in the **Federal Register**. Two subchapters are being provided for initially—subchapter A on organization and procedures and subchapter B on government ethics.

Redesignation of Certain Government Ethics Regulations

As noted, certain existing regulations of the Office dealing with the subject of government ethics are being transferred to chapter XVI and redesignated, with the concurrence of OGE's former parent agency, the Office of Personnel Management. The first regulation being redesignated is 5 CFR part 2634 (old 5 CFR part 734) entitled "Executive Personnel Financial Disclosure Requirements." This part constitutes the public financial reporting regulation for high-level executive branch officials pursuant to title II of the Ethics in Government Act, 5 U.S.C. appendix III.

The second redesignated regulation is 5 CFR part 2637 (old 5 CFR part 737), entitled "Regulations Concerning Post Employment Conflict of Interest." Part 2637 gives content to the post government employment restrictions applicable to former executive branch officials in 18 U.S.C. 207 of the conflict of interest laws. The section numbering of this part is also being revised to reflect subpart divisions, as is the case for the other redesignated regulations.

Further, OGE is redesignating 5 CFR 2638 (old 5 CFR part 738). The title of this part, previously entitled "Office of Government Ethics," is being revised to read "Office of Government Ethics and Executive Agency Ethics Program Responsibilities." The revised title will more accurately reflect the scope of this part setting forth ethics program responsibilities for the executive branch under the Ethics in Government Act, especially in light of future rules to implement the additional corrective action and agency reports responsibilities under section 402 of the Ethics Act, as amended by Public Law 100-598. See 5 U.S.C. appendix IV, 402.

Finally, the authority citations for these redesignated parts are being updated, including substitution of applicable United States Code citations in place of public law and Statutes at Large references. No substantive revisions to OGE's regulations are being adopted at this time; the changes in the recent government ethics legislation will be reflected in the redesignated parts in the future.

Retention of Current Designation for One Ethics Regulation

One existing regulation of the Office of Government Ethics and the Office of Personnel Management, 5 CFR part 735, entitled "Employee Responsibilities and Conduct," is not being redesignated at this time for the following reasons. First, that part is a joint responsibility of OGE and OPM. Most sections thereof (subparts A, B and C) are standards of conduct reflective of the Executive Orders on government ethics and the conflict of interest laws. However, certain provisions are derived from the

authority of the Office of Personnel Management to regulate federal employee conduct generally.

The government-wide standards which are subject to OPM issuance will stay in part 735 of OPM's chapter I of 5 CFR. The standards in 5 CFR part 735 reflective of government ethics principles will be replaced once OGE issues new standards regulations pursuant to Executive Order 12674. That order provides that OGE, in consultation with the Attorney General and OPM, is to promulgate a new single and comprehensive set of standards of conduct for the executive branch (to be supplemented as appropriate with agency-specific addenda). See sections 201(a) and 301(a) of E.O. 12674. OGE is reserving a new part 2635 of 5 CFR for the forthcoming "Principles of Ethical Conduct."

Moreover, one portion of the current 5 CFR part 735, subpart D, deals with confidential financial reporting by certain mid-level executive branch officials. Section 201(d) of E.O. 12674 reaffirms that there are to be superseding regulations to be promulgated by OGE on that topic as well. OGE has been working on these regulations and is reserving a new part 2633 to accommodate them.

Pending revision, the savings clause in section 502(a) of E.O. 12674 provides for the continuing effectiveness of the current 5 CFR part 735 regulations as well as of other government ethics actions of the executive branch under the prior ethics Executive Orders 11222 and 12565 and the present executive agency standards of conduct promulgated thereunder.

B. Procedural Matters

Administrative Procedure Act

The regulations being transferred and redesignated were previously promulgated in due accordance with the notice and opportunity for public comment requirements of the Administrative Procedure Act, 5 U.S.C. 553 (some of the provisions were published on an interim basis or deemed exempt from such requirements as justified at the time). Since no substantive changes are being effectuated to these rules by this transfer and redesignation, no notice of proposed rulemaking and comment period are necessary. Further, the designation of a new chapter for OGE does not include any new regulations at this time; thus, notice or comment are likewise unnecessary. Moreover, OGE finds that it is in the public interest that OGE's new chapter be established and that the executive branch government ethics regulations indicated above be transferred thereto as soon as possible. Therefore, the chapter establishment and transfer of regulations to redesignated parts as set forth in this document will be effective immediately and without prior notice and opportunity for public comment.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for these rules and because they will not have a significant economic impact on a substantial number of small entities, no Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) analysis is required.

E.O. 12291

The Office of Government Ethics has determined that these are not major rules as defined under section 1(b) of Executive Order 12291, Federal Regulation Requirements.

Paperwork Reduction Act

These rules do not impose any additional information collection requirements requiring Office of Management and Budget approval under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), since they are simply being transferred and redesignated from OPM's chapter I of 5 CFR to OGE's new chapter XVI of 5 CFR.

List of Subjects in 5 CFR Parts 2634, 2637 and 2638

Conflict of interests, Ethical conduct, Financial disclosure.

Approved: November 27, 1989.

Donald E. Campbell,

Acting Director, Office of Government Ethics.

Approved: November 30, 1989.

Constance B. Newman,

Director, Office of Personnel Management.

Authority: Secion 401 of the Ethics in Government Act, as amended by secs. 3, 10, 103 Stat. 3031, 3035 (5 U.S.C. Appendix IV, sec. 401).

Accordingly, the Office of Government Ethics hereby establishes a new chapter XVI and amends, with the concurrence of the Office of Personnel Management, chapter I, both of title 5, Code of Federal Regulations, as set forth below.

1. Title 5 is amended by adding a chapter XVI (consisting of subchapters A and B) to read as follows:

CHAPTER XVI—OFFICE OF GOVERNMENT ETHICS

SUBCHAPTER A—ORGANIZATION AND PROCEDURES

Part
2600 Organization and Functions [Reserved]
2602 Employee Responsibilities and Conduct, Addendum [Reserved]
2604 Freedom of Information Act Rules [Reserved]
2606 Privacy Act Rules [Reserved]
2608 Rules of Practice [Reserved]
2610 Implementation of the Equal Access to Justice Act [Reserved]
2612 Use of Penalty Mail in the Location and Recovery of Missing Children [Reserved]

SUBCHAPTER B—GOVERNMENT ETHICS

Part
2633 Executive Agency Regulations Governing Non-Public Financial Disclosure Reports [Reserved].
2634 Executive Personnel Financial Disclosure Requirements
2635 Principles of ethical conduct [Reserved].
2637 Regulations Concerning Post Employment Conflict of Interest.
2638 Office of Government Ethics and Executive Agency Ethics Program Responsibilities.

2. Title 5 of the Code of Federal Regulations is amended by transferring and redesignating certain regulations from 5 CFR chapter I to 5 CFR chapter XVI as set forth in the following redesignation table which shows the relationship of each former CFR part, subpart and section number under 5 CFR chapter I and the new part, subpart and section number under 5 CFR chapter XVI:

REDESIGNATION TABLE

5 CFR chapter I, subchapter B, old section numbers	5 CFR chapter XVI, subchapter B, new section numbers
Part 734	Part 2634
Subpart A	Subpart A
734101	2634.101
734.102	2634.102
734.103	2634.103
734.104	2634.104
734.105	2634.105
Subpart B	Subpart B
734.201	2634.201
734.202	2634.202
734.203	2634.203
734.204	2634.204
734.205	2634.205
Subpart C	Subpart C
734.301	2634.301
734.302	2634.302
734.303	2634.303
734.304	2634.304
Subpart D	Subpart D
734.401	2634.401
734.402	2634.402
734.403	2634.403
734.404	2634.404
734.405	2634.405
734.406	2634.406

REDESIGNATION TABLE—Continued

5 CFR chapter I, subchapter B, old section numbers	5 CFR chapter XVI, subchapter B, new section numbers
734.407	2634.407
734.408	2634.408
Subpart E	Subpart E
734.501	2634.501
734.502	2634.502
Subpart F	Subpart F
734.601	2634.601
734.602	2634.602
734.603	2634.603
734.604	2634.604
734.605	2634.605
Subpart G	Subpart G
734.701	2634.701
734.702	2634.702
734.703	2634.703
Subpart H	Subpart H
734.801	2634.801
734.802	2634.802
734.803	2634.803
734.804	2634.804
734.805	2634.805
Subpart I	Subpart I
734.901	2634.901
734.902	2634.902
734.903	2634.903
Appendix A to Part 734	Appendix A to Part 2634
Appendix B to Part 734	Appendix B to Part 2634
Part 737	Part 2637
Subpart A	Subpart A
737.1	2637.101
737.3	2637.102
Subpart B	Subpart B
737.5	2637.201
737.7	2637.202
737.9	2637.203
737.11	2637.204
737.13	2637.205
737.15	2637.206
737.17	2637.207
737.19	2637.208
737.21	2637.209
737.23	2637.210
737.25	2637.211
737.27	2637.212
737.29	2637.213
737.31	2637.214
737.32	2637.215
737.33	2637.216
Part 738	Part 2638
Subpart A	Subpart A
738.101	2638.101
738.102	2638.102
738.103	2638.103
738.104	2638.104
Subpart B	Subpart B
738.201	2638.201
738.202	2638.202
738.203	2638.203
738.204	2638.204
Subpart C	Subpart C
738.301	2638.301
738.302	2638.302
738.303	2638.303
738.304	2638.304
738.305	2638.305
738.306	2638.306
738.307	2638.307
738.308	2638.308
738.309	2638.309
738.310	2638.310
738.311	2638.311
738.312	2638.312
738.313	2638.313

3. All internal references in the redesignated parts and sections are changed accordingly.

4. The authority citation for newly designated part 2634 is revised to read as follows:

Authority: 5 U.S.C. appendixes III, IV.

5. The authority citation for newly designated part 2637 is revised to read as follows:

Authority: 5 U.S.C. appendixes III, IV; 18 U.S.C. 207.

6. The authority citation for newly designated part 2638 is revised to read as follows:

Authority: 5 U.S.C. appendixes III, IV.

7. The title of newly designated part 2638 is revised to read as follows:

PART 2638—OFFICE OF GOVERNMENT ETHICS AND EXECUTIVE AGENCY ETHICS PROGRAM RESPONSIBILITIES

[FR Doc. 89-28387 Filed 12-4-89; 8:45 am]
BILLING CODE 6345-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

[FV-89-111FR]

1989-90 Expenses and Assessment Rate Under Marketing Order No. 989; Raisins Produced From Grapes Grown in California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule will authorize expenditures and establish an assessment rate under Marketing Order No. 989 for the 1989-90 fiscal year established under the federal marketing order for raisins produced from grapes grown in California. Authorization of this budget will allow the Raisin Administrative Committee (Committee) to incur reasonable and necessary expenses to administer the marketing order program. Funds for the program will be derived from assessments on handlers of California raisins.

EFFECTIVE DATES: August 1, 1989, through July 31, 1990.

FOR FURTHER INFORMATION CONTACT: Patricia A. Petrella, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 475-3920.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 989 (7 CFR Part 989), both as amended, regulating the handling of raisins produced from grapes grown in California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are an estimated 23 handlers of California raisins subject to regulation under this marketing order and approximately 5,000 producers of California raisins. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts for the last three years of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The minority of handlers and the majority of producers of raisins may be classified as small entities.

The federal marketing order for California raisins requires that the assessment rate for a particular marketing year shall apply to all assessable raisins handled from the beginning of such year. An annual budget of expenses is prepared by the Committee and submitted to the U.S. Department of Agriculture (Department) for approval. The members of the Committee are handlers and producers of regulated raisins. They are familiar with the Committee's needs and with the cost for goods, services, and personnel in their local area and are thus in a position to formulate an appropriate budget. The budget is formulated and discussed in public meetings, so that all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by the Committee is derived by dividing

anticipated expenses by expected shipments of assessable raisins. That rate is applied to actual shipments to produce sufficient income to pay the Committee's expected expenses. The budget of expenses and rate of assessment are usually recommended by the Committee shortly after the season starts. Expenses are incurred on a continuous basis; therefore, the approval of expenditures and the assessment rate must be expedited so that the Committee will have funds to meet its obligations.

The Committee met on October 5, 1989, as required by the marketing order, and unanimously recommended 1989–90 marketing order expenditures of $483,405 and an assessment rate of $1.50 per assessable ton of raisins. In comparison, 1988–89 marketing year budgeted expenditures were $435,000, and the assessment rate was 1.50 per ton. Assessment income for 1989–90 is estimated at $483,405 based on 322,270 tons of assessable raisins.

While this action will impose some additional costs on handlers of California raisins, including small entities, the costs are in the form of uniform assessments on all handlers. Any costs to handlers are expected to be more than offset by benefits derived from the operation of the marketing order. Therefore, the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

This action adds a new § 989.340 and is based on Committee recommendations and other information. A proposed rule was published in the November 2, 1989, issue of the **Federal Register** (54 FR 46269). Comments on the proposed rule were invited from interested persons until November 13, 1989. No comments were received.

After consideration of the information and recommendations submitted by the Committee and other available information, it is found that this final rule will tend to effectuate the declared policy of the Act.

This budget and assessment rate should be expedited because the Committee needs to have sufficient funds to pay its expenses, which are incurred on a continuous basis. In addition, handlers are aware of this action, which was recommended by the Committee at public meetings. Therefore, it is found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553).

List of Subjects in 7 CFR Part 989

California, Grapes, Marketing agreements and orders, Raisins.

For the reasons set forth in the preamble, 7 CFR part 989 is revised to read as follows:

Note: This section will not appear in the annual Code of Federal Regulations.

1. The authority citation for 7 CFR part 989 continues to read as follows:

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

2. Section 989.340 is added to read as follows:

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

§ 989.340 Expenses and assessment rate.

Expenses of $483,405 by the Raisin Administrative Committee are authorized and an assessment rate payable by each handler in accordance with § 989.80 of $1.50 per ton of assessable raisins is established for the crop year ending July 31, 1990. Any unexpended funds from that crop year shall be credited or refunded to the handler from whom collected.

Dated: November 30, 1989.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89–28380 Filed 12–4–89; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89–ANE–02; Amendment 39–6352]

Airworthiness Directives; Pratt & Whitney (PW) JT8D–9, –9A, –11, –15, –15A, –17, –17A, –17R, and –17AR Turbofan Engine

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires replacement of certain first stage fan blade retaining plates on certain PW JT8D engines. The AD requires replacing the original retaining plates, and the retaining plates which were introduced by Spare Parts Bulletin (SPB) P–0822, dated July 22, 1976, with a new improved retaining plate. The AD is needed to prevent a first stage fan blade liberation which could result in fire, inflight shutdown, engine cowl release, or airframe damage.

DATES: Effective—January 1, 1990.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of January 1, 1990.

Compliance: As indicated in the body of the AD.

ADDRESSES: The applicable Alert Service Bulletin (ASB) may be obtained from Pratt & Whitney, Publication Department, P.O. Box 611, Middletown, Connecticut 06457, or may be examined at the Regional Rules Docket, Room 311, Office of the Assistant Chief Counsel, Federal Avitation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Thomas Boudreau, Engine Certification Branch, ANE–141, Engine Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617 273–7121.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations (FAR) to include an AD which requires replacement of certain first stage fan blade retaining plates on certain PW JT8D turbofan engines was published in the **Federal Register** on April 19, 1989 (54 FR 15771).

The proposal was prompted by nineteen first stage fan blade liberation events. Thirteen of these events resulted in either fire, engine cowl release, or airframe damage. Fifteen of the nineteen blade liberation events occurred with the original retaining plates. However, four events occurred with improved design retaining plates which were introduced by SPB P–0822, dated July 22, 1976. Also, there have been seven first stage fan blade liberation events caused by bird ingestion, all occurring on wing-mounted engines containing the original design retaining plates. Consequently, the risk of a blade liberation due to an ingestion event is dependent on the engine installation position in addition to the retaining plate design.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Four comments were received concerning the proposed rule.

One commenter stated that the first improved retaining plate design was introduced by SPB P–0822, dated July 22, 1976, and not by Serivce Bulletin (SB) 5739 as stated in the notice of proposed

rulemaking (NPRM). The FAA concurs that SPB P–0822, dated July 22, 1976, is the document which introduced the first improved retaining plate design.

Three commenters stated that the proposed compliance schedule based solely on calendar date was too restrictive and should be changed to allow an option to comply with an engine operating time limit.

The FAA concurs with these commenters. The schedule chosen for the NPRM met an acceptable level of safety with minimal economic impact. At the time the NPRM was issued, allowing an engine operating time limit option, while still maintaining an acceptable level of safety, would have resulted in substantial compliance schedule reductions (calendar and operation time). However, no additional first stage fan blade liberation events have occurred, partly because operators have begun to replace the retaining plates thus reducing the affected population. Consequently, the decrease in occurrence rate permits a relaxation of the compliance schedule and an engine operating time limit option will be included in the AD. However, it should be noted that this relaxation of the compliance schedule may result in an increased economic impact if operators take full advantage of the compliance schedule. The FAA has revised the regulatory evaluation accordingly.

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

The FAA has determined that this regulation involves approximately 5,175 engines (domestic fleet) with a maximum total cost of two million dollars. It has also been determined that few, if any, small entities within the meaning of the Regulatory Flexibility Act will be affected since the proposed rule affects only operators using aircraft in which JT8D–9 through JT8D–17AR model engines are installed, none of which are believed to be small entities. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Regional Rules Docket.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—[AMENDED]

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

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

Pratt & Whitney: Applies to Pratt & Whitney (PW) JT8D–9, –9A, –11, –15, –15A, –17, –17A, –17R, and –17AR turbofan engines.

Compliance is required as indicated, unless already accomplished.

To prevent fire, inflight shutdown, engine cowl release, or airframe damage associated with a first stage fan blade liberation, remove certain first stage fan blade retaining plates in accordance with the Accomplishment Instructions of PW Alert Service Bulletin (ASB) 5841, dated February 15, 1989, and replace with an improved design retaining plate as follows:

(a) Replace retaining plate Part Numbers (P/N) 520451, 616645, or 639616 with retaining plate P/N 803996 at the next shop visit but no later than:

(1) Two years or 4,000 hours in service after the effective date of this AD, whichever occurs later, for wing-mounted engines.

(2) Four years or 8,000 hours in service after the effective date of this AD, whichever occurs later, for fuselage-mounted engines.

(b) Replace retaining plate P/N 760297, 793935, or 802710 with retaining plate P/N 803996 at the next shop visit but no later than five years or 10,000 hours in service after the effective date of this AD, whichever occurs later.

Notes: (1) A shop visit occurs following engine removal where the subsequent engine maintenance entails the following:

(a) Separation of a major engine flange (lettered or numbered), other than flanges mating with major sections of the nacelle or reverser. Separation of flanges purely for purposes of shipment, without subsequent internal maintenance, is not a "shop visit."

(b) Removal of a disk, hub, or spool.

(2) FAA approved first stage fan blade retaining plate designs may be used in lieu of P/N 803996 retaining plate as an alternate method of compliance.

(c) Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD may be accomplished.

(d) Upon submission of substantiating data by an owner or operator through an FAA Airworthiness Inspector, an alternate method of compliance with the requirements of this AD or adjustments to the compliance times specified in this AD, may be approved by the Manager, Engine Certification Office, ANE–140, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

The inspection/replacement procedures shall be done in accordance with PW ASB 5841, dated February 15, 1989. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be inspected at the Regional Rules Docket, Office of the Assistant Chief Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Room 311, Burlington, Massachusetts 01803, or at the Office of the Federal Register, 1100 L Street, NW., room 8301, Washington, DC 20591.

This amendment becomes effective on January 1, 1990.

Issued in Burlington, Massachusetts, on September 27, 1989.

Jay J. Pardee,

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

[FR Doc. 89–28314 Filed 12–4–89; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

[Reg. No. 4]

RIN 0960–AC78

Federal Old-Age, Survivors and Disability Insurance (1950——); Determining Disability and Blindness; Extension of Expiration Date for Cardiovascular System Listing

AGENCY: Social Security Administration, HHS.

ACTION: Final rules.

SUMMARY: We are extending the expiration date of the cardiovascular system listing found in appendix 1 of part 404, subpart P from December 6, 1989, to June 6, 1991. We have made no revisions in the medical criteria in the cardiovascular listings; they remain the

same as they now appear in the Code of Federal Regulations. We are presently considering revisions to update the medical criteria contained in part A of the listing, and any revised criteria will be published as proposed rules when we have completed our review. Under these final rules extending the expiration date of the existing criteria, we will continue to use the existing criteria until any revised criteria are published as final rules.

EFFECTIVE DATE: This final rule will be effective December 5, 1989.

FOR FURTHER INFORMATION CONTACT: Irving Darrow, Esq., Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (301) 965–1755.

SUPPLEMENTARY INFORMATION: On December 6, 1985, a revised Listing of Impairments in appendix 1 to subpart P of part 404 was published in the **Federal Register** (50 FR 50068). The Listing of Impairments describes, for each of the 13 major body systems, impairments that are considered severe enough to prevent an adult from performing any gainful activity (part A), or in the case of children under the age of 18, impairments which compare in severity to impairments that would make an adult disabled (part B). The Listing of Impairments is used for evaluating disability and blindness under the Social Security disability program and the Supplemental Security Income for the Aged, Blind, and Disabled program.

When the revised Listing of Impairments was published in 1985, we indicated that disability evaluation and treatment and program experience would require that the listing be periodically reviewed and updated. Accordingly, expiration dates were established ranging from 4 to 8 years for each of the specific body systems. A termination date of December 6, 1989, was established for part A of the cardiovascular system listing. Part B of the listing has a termination date of December 6, 1993.

In November 1984, SSA convened an expert medical panel to review the current cardiovascular listings and propose revisions to them based upon the latest advances in medical knowledge and technology. The Cardiovascular Panel was comprised of representatives from national medical professional groups and Federal and State representatives with expertise in the evaluation of disability claims involving cardiovascular impairments.

The panel met seven times and submitted their final report to SSA on July 22, 1987, for consideration as the basis for listing changes. Panel deliberations were very thorough due to the need to consider significant medical advances with respect to the evaluation and treatment of cardiovascular impairments. The final report was advisory only and requires careful study as we review the existing listing and consider the development of new regulations. The potential program impact of the changes recommended by the panel requires careful analysis and consideration within the agency. So that we will have an opportunity to consider these thoroughly, we are extending the expiration date of part A of the cardiovascular listing.

Regulatory Procedures

The Department, even when not required by statute, as a matter of policy, generally follows the Administrative Procedure Act notice of proposed rulemaking and public comment procedures specified in 5 U.S.C. 553 in the development of its regulations. The Administrative Procedure Act provides exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest. We have determined that, under 5 U.S.C. 553(b), good cause exists for waiver of notice of proposed rulemaking and public comment procedures on this rule because opportunity for public comment is unnecessary. Prior notice and comment before publication are unnecessary because these regulations only extend the expiration date of Part A of the cardiovascular listings and make no substantive changes to these listings. The current regulations expressly provide that the listings may be extended by the Secretary, as well as revised and promulgated again. Since we are not making any revisions to the current listings, use of public comment procedures is not contemplated by the existing regulations and is unnecessary under the Administrative Procedure Act. After our review of the existing cardiovascular listings is completed, proposed revisions to the existing criteria will, of course, be published for public comment.

Executive Order 12291

The Secretary has determined that this is not a major rule under Executive Order 12291 because these regulations do not meet any of the threshold criteria for a major rule. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities because they only affect disability claimants under titles II and XVI of the Act.

Paperwork Reduction Act

These regulations impose no reporting or recordkeeping requirements necessitating clearance by the Office of Management and Budget.

(Catalog of Federal Domestic Assistance Program No. 13.802, Social Security Disability Insurance; No. 13.807, Supplemental Security Income Program)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Death benefits, Disability benefits, Old-Age, Survivors and Disability Insurance.

List of Subjects

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental Security Income.

Dated: November 17, 1989.

Gwendolyn S. King,

Commissioner of Social Security.

Approved: November 28, 1989.

Louis W. Sullivan,

Secretary of Health and Human Services.

PART 404—FEDERAL OLD-AGE SURVIVORS AND DISABILITY INSURANCE

For the reasons set forth in the preamble, part 404, title 20 of the Code of Federal Regulations is amended as set forth below.

20 CFR part 404, subpart P—is amended as follows:

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

Authority: Secs. 202, 205 (a), (b), and (d)–(h), 216(i), 221 (a) and (i), 222(c), 223, 225, and 1102 of the Social Security Act; 42 U.S.C. 402, 405 (a), (b) and (d)–(h), 416(i), 421 (a) and (i), 422(c), 423, 425, and 1302; sec. 505(a) of Pub. L. 96–265, 94 Stat. 473; secs. 2(d)(2), 5, 6, and 15 of Pub. L. 98–460, 98 Stat. 1797, 1801, 1802, and 1808.

Appendix 1 to subpart P—[Amended]

2. Appendix 1 to subpart P, is amended by revising the fourth paragraph of the introductory text to read as follows:

The cardiovascular system (4.00) will no longer be efffective on June 6, 1991.

[FR Doc. 89-28453 Filed 12-4-89; 8:45 am]
BILLING CODE 4190-11-M

Food and Drug Administration

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Gonadorelin Sterile Solution

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Fort Dodge Laboratories, Inc. The NADA provides for intramuscular use of gonadorelin sterile solution for cattle to treat cystic ovaries.

EFFECTIVE DATE: December 5, 1989.

FOR FURTHER INFORMATION CONTACT: Diane T. McRae, Center for Veterinary Medicine (HFV-135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4913.

SUPPLEMENTARY INFORMATION: Fort Dodge Laboratories, Inc., P.O. Box 518, 800 5th St., NW., Fort Dodge, IA 50501, filed NADA 139-237, providing for intramuscular use of gonadorelin sterile solution for treatment of cystic ovaries (ovarian follicular cysts) in cattle to reduce the time to first estrus. The NADA is approved and new § 522.1077 (21 CFR 522.1077) is added to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(iii) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR part 522 continues to read as follows:

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

2. New § 522.1077 is added to read as follows:

§ 522.1077 Gonadorelin injectable.

(a) *Specifications.* Each milliliter sterile aqueous solution contains 50 micrograms of gonadorelin (as hydrochloride).

(b) *Sponsor.* See No. 000856 in § 510.600(c) of this chapter.

(c) *Conditions of use in cattle*—(1) *Amount.* 100 micrograms per cow intramuscularly.

(2) *Indications for use.* For the treatment of cystic ovaries (ovarian follicular cysts) in cattle to reduce the time to first estrus.

(3) *Limitations.* For intramuscular use only. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: November 28, 1989.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 89-28315 Filed 12-4-89; 8:45 am]
BILLING CODE 4160-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05-89-5106]

Special Local Regulations for Marine Events; New Year's Eve Celebration Fireworks; Norfolk Harbor, Elizabeth River, Norfolk and Portsmouth, VA

AGENCY: Coast Guard, DOT.
ACTION: Notice of implementation of 33 CFR 100.501.

SUMMARY: This notice implements 33 CFR 100.501 for the New Year's Eve Celebration Fireworks Display. The fireworks display will be launched from the Town Point Park Fireworks—Mast Area, Town Point Park, Norfolk, Virginia, on the Elizabeth River, adjacent to "Waterside", between the Norfolk and Portsmouth downtown areas from 10:00 p.m., December 31, 1989 to 1:30 a.m., January 1, 1990. The regulations in 33 CFR 100.501 are needed to control vessel traffic within the immediate vicinity of the event due to the confined nature of the waterway and the expected congestion at the time of the event. The regulations restrict general navigation in the area for the safety of life and property on the navigable waters during the event.

EFFECTIVE DATES: The regulations in 33 CFR 100.501 are effective from 10:00 p.m., December 31, 1989 to 1:30 a.m., January 1, 1990. If inclement weather causes the postponement of the event, the regulations are effective from 6:00 p.m. to 8:00 p.m., January 1, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Phillips, Chief, Boating Affairs Branch, Boating Safety Division, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004, (804) 398-6204.

SUPPLEMENTARY INFORMATION:

Drafting Information: The drafters of this notice are QM1 Kevin R. Connors, project officer, Boating Affairs Branch, Boating Safety Division, Fifth Coast Guard District, and Lieutenant Steven M. Fitten, project attorney, Fifth Coast Guard District Legal Staff.

Discussion of Regulation: Norfolk Festevents, Ltd. submitted an application on January 19, 1989 to hold a fireworks display from 10:00 p.m., December 31, 1989 to 1:30 a.m., January 1, 1990. The fireworks display will be launched from the Town Point Park Fireworks—Mast Area, Town Point Park, Norfolk, Virginia, and will burst over the Elizabeth River. Since many spectator vessels are expected to be in the area to watch the fireworks display, the regulations in 33 CFR 100.501 are being implemented for these events. The fireworks will be launched from within the regulated area. The waterway will be closed during the fireworks display. Since the waterway will not be closed for an extended period, commercial traffic should not be severely disrupted. In addition to regulating the area for the safety of life and property, this notice of implementation also authorizes the Patrol Commander to regulate the operation of the Berkley drawbridge in accordance with 33 CFR 117.1007, and authorizes spectators to anchor in the special anchorage areas described in 33 CFR 110.72aa. The implementation of 33 CFR 100.501 also implements regulations in 33 CFR 100.72aa and 117.1007. 33 CFR 110.72aa establishes the spectator anchorages in 33 CFR 100.501 as special anchorage areas under Inland Navigation Rule 30, 33 U.S.C. 2030(g). 33

CFR 117.1007 closes the draw of the Berkley Bridge to vessels during and for one hour before and after the effective period under 33 CFR 100.501, except that the Coast Guard Patrol Commander may order that the draw be opened for commercial vessels.

These regulations are implemented by publication of this implementing notice in the **Federal Register** and a notice in the Local Notice to Mariners.

Dated: November 29, 1989.

P.A. Welling,

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

[FR Doc. 89-28386 Filed 12-4-89; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6856]

Suspension of Community Eligibility; Maine et al.

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

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

EFFECTIVE DATES: The third date ("Susp.") listed in the fourth column.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646-2717, Federal Center Plaza, 500 C Street, Southwest, Room 417, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022), prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate floodplain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR part 59 et. seq.). Accordingly, the communities will be suspended on the effective date in the fourth column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**. In the interim, if you wish to determine if a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map if one has been published, is indicated in the fifth column of the table. No direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

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

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

Pursuant to the provision of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, FEMA, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in Section 2 of the Flood Disaster Protection Act of 1973, the establishment of local floodplain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate floodplain management, thus placing itself in noncompliance of the Federal standards required for community participation. In each entry, a complete chronology of effective dates appears for each listed community.

List of Subjects in 44 CFR Part 64

Flood insurance—floodplains.

PART 66—[AMENDED]

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

Authority: 42 U.S.C. 4001 et. seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

2. Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date[1]
Regular Program Conversions Region I				
Maine: Millinocket, Town of Penobscot County	230111	June 12, 1975, Emerg.; Dec. 5, 1989, Reg.; Dec. 5, 1989, Susp.	12-5-1989	Dec. 5, 1989.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date[1]
Region III				
Pennsylvania				
Creekside, Borough of Indiana County	420499	Sept. 10, 1975, Emerg.; Dec. 5, 1989, Reg.; Dec. 5, 1989, Susp	12-5-1989	Do.
Green, Township of Indiana County	421718	Feb. 18, 1976, Emerg.; Dec. 5, 1989, Reg.; Dec. 5, 1989, Susp	12-5-1989	Do.
Morris, Township of Clearfield County	421529	Nov. 17, 1975, Emerg.; Dec. 5, 1989, Reg.; Dec. 5, 1989, Susp	12-5-1989	Do.
Petrolia, Borough of Butler County	420221	Mar. 3, 1977, Emerg.; Dec. 5, 1989, Reg.; Dec. 5, 1989, Susp	12-5-1989	Do.
Shelocta, Borough of Indiana County	420506	Oct. 7, 1975, Emerg.; Dec. 5, 1989, Reg.; Dec. 5, 1989, Susp	12-5-1989	Do.
Walker, Township of Schuylkill County	422026	Mar. 19, 1975, Emerg.; Dec. 5, 1989, Reg.; Dec. 5, 1989, Susp	12-5-1989	Do.
Weatherly, Borough of Carbon County	420255	May 28, 1975, Emerg.; Dec. 5, 1989, Reg.; Dec. 5, 1989, Susp	12-5-1989	Do.
Region V				
Illinois:				
Dowell, Village of Jackson County	170875	Apr. 20, 1979, Emerg.; Dec. 5, 1989, Reg.; Dec. 5, 1989, Susp	12-5-1989	Do.
Muddy, Village of Saline County	170599	July 10, 1975, Emerg.; Dec. 5, 1989, Reg.; Dec. 5, 1989, Susp	12-5-1989	Do.
Wisconsin:				
Shawano, City of Shawano County	550421	Apr. 30, 1975, Emerg.; Dec. 5, 1989, Reg.; Dec. 5, 1989, Susp	12-5-1989	Do.
Eleva, Village of Trempealeau County	550441	May 23, 1975, Emerg.; Dec. 5, 1989, Reg.; Dec. 5, 1989, Susp	12-5-1989	Do.
Price County unincorporated areas	550343	Dec. 29, 1975, Emerg.; Dec. 5, 1989, Reg.; Dec. 5, 1989, Susp	12-5-1989	Do.
Region VII				
Nebraska: Elk Creek, Village of Johnson County	310014	Sept. 25, 1979, Emerg.; Sept. 4, 1985, Reg.; Dec. 5, 1989, Susp	9-4-1985	Do.
Region X				
Oregon: Lake County unincorporated areas	410115	Mar. 3, 1975, Emerg.; Dec. 5, 1989, Reg.; Dec. 5, 1989, Susp	12-5-1989	Do.
Washington: Clallam County unincorporated areas	530021	Nov. 27, 1973, Emerg.; Nov. 5, 1980, Reg.; Dec. 5, 1989, Susp	12-5-1989	Do.
Region II				
New York: Lincoln, Town of Madison County	360405	Sept. 10, 1975, Emerg.; Sept. 4, 1985, Reg.; Dec. 15, 1989, Susp	12-15-1989	Dec. 15, 1989.
Region III				
Pennsylvania: Hyndman, Borough of Bedford County.	420121	Apr. 29, 1975, Emerg.; Dec. 15, 1989, Reg.; Dec. 15, 1989, Susp	12-15-1989	Do.
Virginia: Wise County unincorporated areas	510174	Oct. 30, 1974, Emerg.; Aug. 17, 1981, Reg.; Dec. 15, 1989, Susp	12-15-1989	Do.
Region IV				
Georgia: Fitzgerald, City of Ben Hill County	130007	Dec. 26, 1973, Emerg.; Dec. 15, 1989, Reg.; Dec. 15, 1989, Susp	12-15-1989	Do.
North Carolina:				
Moore County unincorporated areas	370164	June 4, 1975, Emerg.; Dec. 15, 1989, Reg.; Dec. 15, 1989, Susp	12-15-1989	Do.
Pinebluff, Town of Moore County	370337	Sept. 25, 1979 Emerg.; July. 17, 1986, Reg.; Dec. 15, 1989, Susp	7-17-1986	Do.
Swain County unincorporated areas	370227	Feb. 3, 1980, Emerg.; July. 17, 1986, Reg.; Dec. 15, 1989, Susp	12-15-1989	Do.
Region V				
Wisconsin: Park Falls, City of Price County	550344	Apr. 17, 1974, Emerg.; Dec. 15, 1989, Reg.; Dec. 15, 1989, Susp	12-15-1989	Do.
Ohio:				
Paulding County unincorporated areas	390777	Mar. 14, 1978, Emerg.; Dec. 5, 1989, Reg.; Dec. 15, 1989, Susp	12-5-1989	Dec. 5, 1989.
Waupaca, City of Waupaca County	550502	May 13, 1975, Emerg.; Aug. 3, 1989, Reg.; Dec. 15, 1989, Susp	12-5-1989	Dec. 15, 1989.
Region VII				
Kansas:				
Jackson County unincorporated areas	200147	July 15, 1983, Emerg.; Dec. 15, 1989, Reg.; Dec. 15, 1989, Susp	12-15-1989	Do.
Parsons, City of Labette County	200184	Oct. 3, 1974, Emerg.; July 16, 1979, Reg.; Dec. 15, 1989, Susp	12-5-1989	Do.
Missouri: Bolivar, City of Polk County	290299	July 24, 1975, Emerg.; June 16, 1988, Reg.; Dec. 15, 1989, Susp	12-15-1989	Do.

[1] Date certain Federal assistance no longer available in special flood hazard areas.

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

Issued: November 22, 1989.

Harold T. Duryee,

Administrator, Federal Insurance Administration.

[FR Doc. 89-28475 Filed 12-4-89; 8:45 am]

BILLING CODE 6718-21-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 2 and 90

[PR Docket No. 88-567; FCC 89-301]

Private Land Mobile Radio Service Stations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a petition for rule making, 54 FR 1733 (January 17, 1989), the Commission adopted a Report and Order to permit applicants that file routine private land mobile station applications for facilities on shared frequencies to commence operations on a conditional basis during the application processing period upon the filing of their applications if they certify that certain conditions are satisfied. The satisfaction of these conditions indicates that the application can be routinely granted because it involves no special issues.

EFFECTIVE DATE: June 30, 1990.

FOR FURTHER INFORMATION CONTACT: Jerold Feldman, Land Mobile and Microwave Division, Private Radio Bureau, (202) 632-7125.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order, PR Docket No. 88-567, adopted on October 26, 1989 and released November 24, 1989. The full text of the Order is available for inspection and copying during normal business hours in the FCC Private Radio Bureau, Land Mobile and Microwave Division, Compliance Branch (room 5202), 2025 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's copy contractor, International Transcription Service, 2100

M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800.

Summary of Report and Order

1. In response to a January 1988 petition for rule making and a January 1989 notice of proposed rule making, the Commission issued a Report and Order adopting a system of conditional authority for applicants filing routine private land mobile station applications for certain shared frequencies. The conditional licensing procedure applies to applicants for shared frequencies in the bands below 470 MHz and in the one-way frequencies in the 929–930 MHz band. This procedure also encompasses applicants seeking to modify, assign or transfer existing stations in these frequency bands. Applicants for itinerant operations are also covered by this procedure.

2. This procedure permits applicants to commence conditional operations during the application processing period upon the filing of their applications with the Commission if they certify that certain conditions have been met. The satisfaction of these conditions indicates that the application involves no special issues and that the application will not be subject to challenge. These conditions are:

(1) That the proposed station is south of Line A or west of Line C and does not require Canadian coordination;

(2) That granting the application does not require rule waiver;

(3) That the proposed antenna structure has been previously studied by the Federal Aviation Administration and determined to pose no hazard to aviation safety as required by § 17.4 of the Commission's Rules; or that the proposed antenna or tower structure does not exceed 6.1 meters (20 feet) above ground level or above an existing man-made structure (other than an antenna structure), if the antenna or tower has not been previously studied by the Federal Aviation Administration and cleared by the Federal Communications Commission;

(4) That the applicant has determined that the proposed station will not significantly affect the environment as defined by § 1.1307 of the Commission's Rules;

(5) That the proposed station protects radio "quiet" zones and monitoring facilities as specified in § 90.177 of the Commission's Rules; and

(6) That the required frequency coordination procedures have been completed and that an application has been submitted to the Commission stating the frequency the applicant expects to use.

3. The above certifications will be contained on a new Conditional Temporary Authorization Form 572C. The executed original Form 572C must be retained by the applicant with the station records as evidence for conditional authority. Form 572C will contain express provisions warning the applicant that conditional authority may be terminated by the Commission at any time without a right to a hearing. In addition, the applicant will be required to acknowledge that it assumes all risks, including monetary loss due to equipment purchase, in the event conditional authority is terminated or the application is subsequently dismissed or denied.

4. Accordingly, *it is ordered*, that, pursuant to the authority of sections 4(i), 303(r), and 331(a) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r) and 332(a), parts 1, 2 and 90 of the Commission's Rules, 47 CFR part 90, are amended effective June 30, 1990, as set forth below.

5. *It is further ordered*, that this proceeding is terminated.

List of Subjects

47 CFR Part 1

Administrative practice and procedure, Radio, Reporting and recordkeeping requirements.

47 CFR Part 2

Radio, Reporting and recordkeeping requirements.

47 CFR Part 90

Administrative practice and procedure, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Rule Changes

Parts 1, 2, and 90 of the Commission's Rules (47 CFR Ch. I) are amended as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended, 47 U.S.C. 154, 303; Implement 5 U.S.C. 552, unless otherwise noted.

2. Section 1.922 is amended by adding a new FCC form and title as follows:

§ 1.922 Forms to be used.

FCC form	Title
• • • • •	
572C	Conditional Temporary Authorization to Operate a Part 90 Radio Station.
• • • • •	

3. Section 1.925 is amended by redesignating current paragraph (1) as paragraph (i) and revising it and by adding new paragraph (i) to read as follows:

§ 1.925 Application for special temporary authorization, temporary permit or temporary operating authority.

* * * * *

(i) An applicant for an itinerant station license, an applicant for a new private land mobile radio station license in the frequency bands below 470 MHz and in the one-way paging 929–930 MHz band or an applicant seeking to modify or acquire through assignment or transfer an existing station below 470 MHz or in the one-way paging 929–930 MHz band may operate the proposed station during the pendency of its application for a period of up to 180 days under a conditional permit. Conditional operations may commence upon the filing of a properly completed formal application that complies with § 90.127 if the application, when frequency coordination is required, is accompanied by evidence of frequency coordination in accordance with §§ 90.175 and 90.176. Operation under such a permit is evidenced by retaining with the station records the original conditional licensing 572C Certification Form containing the certifications that satisfy the provisions of § 90.159(b).

(j) An applicant for a General Mobile Radio Service system license, sharing a multiple-licensed base station used as a mobile relay station, may operate the system for a period of 180 days, under a temporary permit, evidenced by a properly executed certification made on FCC Form 574–T, after mailing FCC Form 574 to the Commission.

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

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

Authority: Secs. 4, 302, 303, 307, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 302, 303, 307, unless otherwise noted.

2. Section 2.302 is amended by adding a new class of station, composition of call sign, and call sign block to the table of call signs following the entry "Part 90 temporary permit" to read as follows:

§ 2.302 Call signs.

* * * * *

Class of station	Composition of call sign	Call sign blocks
*	*	*
Part 90 conditional permit.	2 letters, 7 digits...	WT plus local telephone number.
*	*	*

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

1. The authority citation for part 90 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303, unless otherwise noted.

2. 47 CFR 90.159 is amended by revising its title and by designating the existing text of this rule section as paragraph (a) and adding new paragraphs (b), (c), (d), and (e) as follows:

§ 90.159 Temporary and conditional permits.

* * * * *

(b) An applicant proposing to operate a new private land mobile radio station or modify an existing station below 470 MHz or in the one-way paging 929–930 MHz band that is required to submit a frequency recommendation pursuant to § 90.175 (a) through (e) may operate the proposed station during the pendency of its application for a period of up to 180 days under a conditional permit upon the filing of a properly completed formal application that complies with § 90.127 if the application is accompanied by evidence of frequency coordination in accordance with §§ 90.175 and 90.176, and provided that the applicant certifies that the following conditions are satisfied:

(1) The proposed station location is south of Line A or west of Line C as defined in § 90.7.

(2) The proposed antenna structure has been previously studied by the Federal Aviation Administration and determined to pose no hazard to aviation safety as required by § 17.4 of the Commission's Rules; or the proposed antenna or tower structure does not exceed 6.1 meters (20 feet) above ground level or above an existing man-made structure (other than an antenna structure), if the antenna or tower has not been previously studied by the Federal Aviation Administration and cleared by the FCC.

(3) The grant of the application does not require a waiver of the Commission's Rules.

(4) The applicant has determined that the proposed facility will not significantly affect the environment as defined in § 1.1307.

(5) The applicant has determined that the proposed station affords the level of protection to radio "quiet" zones and monitoring facilities as specified in § 90.177.

(6) The applicant has submitted an application to the Commission stating the frequency the applicant intends to use and that the frequency coordination requirements specified in §§ 90.175 and 90.176 for selection and use of this frequency have been satisfied.

(c) An applicant proposing to operate an itinerant station, or, an applicant seeking the assignment of authorization or transfer of control of a license for an existing station operating below 470 MHz, or in the 929–930 MHz band, may operate the subject station during the pendency of the application for a period not to exceed 180 days under a conditional permit upon the filing of a properly completed formal application that complies with § 90.127. Conditional authority ceases immediately if the application is returned by the Commission because it is not acceptable for filing. All other categories of applications listed in § 90.175(f) that do not require evidence of frequency coordination are excluded from the provisions of this rule section.

(d) A conditional authorization pursuant to paragraphs (b) and (c) of this section is evidenced by retaining the original executed conditional licensing 572C Certification Form with the station records. Conditional authorization does not prejudice any action the Commission may take on the subject application. Conditional authority is accepted with the express understanding that such authority may be modified or cancelled by the Commission at any time without hearing if, in the Commission's discretion, the need for such action arises. Consistent with § 90.175(d), the applicant assumes all risks associated with operation under conditional authority, the termination or modification of conditional authority, or the subsequent dismissal or denial of its application. Authority reverts back to the original licensee if an assignee or transferee's conditional authority is cancelled.

(e) The transmissions of new stations operating pursuant to conditional authority shall be identified by a temporary call sign consisting of the prefix "WT" followed by the applicant's local seven digit business telephone number as provided in § 2.302. Transmissions by applicants for the modification, assignment of authorization or transfer of control of an existing station shall be identified by the station's call sign.

[FR Doc. 89–28208 Filed 12–4–89; 8:45 am]
BILLING CODE 6712–01–M

Proposed Rules

Federal Register
Vol. 54, No. 232
Tuesday, December 5, 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 HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR PART 349

[Docket No. 80N-145B]

Over-the-Counter Ophthalmic Drug Products for Emergency First Aid Use; Safety and Efficacy Review

AGENCY: Food and Drug Administration, HHS.

ACTION: Request for data and information.

SUMMARY: The Food and Drug Administration (FDA) is announcing a call-for-data for ingredients contained in eyewash drug products used for emergency first aid treatment of chemical burns of the eye(s). The agency will review the submitted data to determine whether these products are generally recognized as safe and effective for their labeled uses. This notice also describes the agency's general regulatory policy governing the marketing of over-the-counter (OTC) emergency first aid eyewash drug products during the pendency of this review. This request is part of the ongoing review of OTC drug products conducted by FDA.

DATES: Data and information to be submitted by June 4, 1990.

ADDRESSES: Submissions should be sent to the Division of OTC Drug Evaluation (HFD-210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drug Evaluation and Research (HFD-210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8000.

SUPPLEMENTARY INFORMATION: In 1972, FDA established the OTC drug review to evaluate all drugs sold OTC. The final regulations providing for the OTC drug review under § 130.301 (recodified as § 330.10) were published and made effective in the **Federal Register** of May 11, 1972 (37 FR 9464). The agency appointed 17 advisory review panels to evaluate safety and effectiveness data of active ingredients found in OTC drug products. An advisory review panel, the Advisory Review Panel on OTC Ophthalmic Drug Products (Ophthalmic Panel), reviewed OTC ophthalmic drug products.

In its report on OTC ophthalmic drug products (published in the **Federal Register** of May 6, 1980; 45 FR 30002), the Ophthalmic Panel, in a general discussion of eyewashes, stated that eyewashes, eye lotions, and eye irrigating solutions are used to dilute or remove irritants such as foreign bodies, pollen, and noxious chemicals from the eye (45 FR 30046). The Panel mentioned that eyewashes, eye lotions, and eye irrigating solutions are not only used by consumers for cleaning and washing irritants from the eyes, but they are also used for the emergency flushing of chemicals or foreign bodies from the eye(s) in homes, places of work, first aid stations, clinics, and hospitals (45 FR 30047). The Panel recognized that these products are important components of first aid and emergency kits in industrial settings, clinics, and hospitals. In addition to their emergency first aid use, the Panel noted that irrigating fluids are used by medical personnel for irrigation following diagnostic procedures and for postoperative irrigation. Even though the Panel was aware of the existence and use of emergency first aid eyewashes and irrigating solutions, it did not consider these products further for these uses because no submissions were made by any company for these products or uses.

Following the publication of the Panel's report, no comments were submitted on the use of emergency first aid eyewashes or irrigating solutions. Accordingly, these products were not discussed in the tentative final monograph for OTC ophthalmic drug products that was published in the **Federal Register** of June 28, 1983 (48 FR 29788) or in the final rule that was published in the **Federal Register** of March 4, 1988 (53 FR 7076).

After the final rule was published, the agency received a request for an advisory opinion (Ref. 1) regarding the status of a product used for emergency first aid treatment of chemical burns of the eyes and the skin. The product was described as a sterile phosphate buffered solution containing sodium phosphate, U.S.P. and monobasic postassium phosphate, NF, preserved with edetate disodium, U.S.P. 1:2000 and benzalkonium chloride, U.S.P. 1:5000, for use immediately following a chemical burn to thoroughly flush the eyes and skin for the express purpose of removing the chemical irritant, and to relieve the discomfort and burning caused by the irritating chemical prior to seeking medical treatment. Noting that the final monograph for OTC ophthalmic drug products (21 CFR Part 349) is silent regarding the use of emergency first aid eyewashes for the treatment of chemical burns, the requester questioned how this product, which has a long marketing history, is to be regulated. The requester recommended that no regulatory action be considered until the problem has been resolved and a decision has been made by the agency as to how this type of product is to be regulated.

The agency is aware that a need exists for eyewash products for emergency first aid treatment of chemical burns (including acid and alkali burns). These products would be considered drugs just as eyewash products in the ophthalmic drug products final monograph are considered drugs. (See discussion of the drug status of eyewash products in comment 2 in the tentative final monograph at 48 FR 29789.)

A number of these eyewash products for emergency first aid treatment of chemical burns have been marketed prior to the effective date of the ophthalmic drug products final monograph. However, the agency currently has little data on which to make a determination as to the safety, effectiveness, and labeling of these products. The agency is aware that the majority of these products (1) are not intended to be marketed directly to individual consumers; (2) are often packaged in large volume containers not normally found at the retail level of distribution, especially for OTC ophthalmic drug products; (3) may be stored for long periods of time under different environmental conditions; (4) may be marketed in different types of containers and closure systems; and (5) may be used with nonplumbed, plumbed, self-contained emergency eyewash, or shower equipment/stations.

etc. The agency is not aware of all of the various labeling formats and labeling statements or the formulations of all the various eyewash products that are offered for emergency first aid ophthalmic use.

The agency is also aware that a number of these products are initially used without medical supervision like other OTC drug products. The agency believes these products could be regulated under the existing monograph for OTC ophthalmic drug products.

The agency is also aware that ophthalmic irrigating solutions are used by medical personnel for irrigating the eye(s) following diagnostic procedures and for postoperative irrigation. The agency believes that professional labeling for such uses of these products could be addressed in the existing monograph for OTC ophthalmic drug products.

Accordingly, FDA invites the submission of data, published and unpublished, and any other information pertinent to all active ingredients in eyewash drug products used for emergency first aid treatment of chemical burns of the eyes. These data and information will facilitate the agency's review and aid in its determination as to whether these OTC drugs for human use are generally recognized as safe and effective and not misbranded under their recommended conditions of use, and will provide all interested persons an opportunity to present for consideration the best data and information available to support the stated claims for these products. Any relevant data and information on eyewash ingredients that may have been submitted to earlier rulemakings should be resubmitted to facilitate the agency's review of this class of drug products. Even though the final monograph for OTC ophthalmic drug products (21 CFR Part 349) became effective on March 6, 1989, any data submitted pursuant to this call-for-data notice will be reviewed and addressed as part of the agency's ongoing review of all OTC drug products. If appropriate, as determined by the agency's review of any submitted data, the agency will proposed to amend the final monogram for OTC ophthalmic drug products to include eyewashes for emergency first aid treatment of chemical burns of the eye(s) and eye irrigating solutions for use following diagnostic procedures and for postoperative irrigation.

Under the agency's general regulatory policy governing the marketing of OTC drug products that do not have an approved new drug application (NDA) during the pendency of the OTC drug review, OTC drug products may be permitted to be marketed without the risk of regulatory action provided the following conditions are met:

(1) The product or similarly formulated and labeled products were marketed as OTC drugs at the inception of the OTC drug review on May 11, 1972, a date that was later extended to on or before December 4, 1975. (See 21 CFR 330.13.)

(2) Such product does not constitute a hazard to health.

(3) The product formulation is not regarded to be a prescription drug within the meaning of section 503(b) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 353(b)).

(4) It is an OTC drug and does not bear claims for serious disease conditions that require the attention and supervision of a licensed practitioner.

Emergency first aid eyewash products and eye irrigating solutions that do not meet the above criteria may not be marketed OTC pending evaluation of these products for the treatment of chemical burns and for irrigation of the eye(s) unless the product is the subject of an approved NDA.

It should be noted that, in the past, in order for a product to be eligible for the OTC drug review, the product or similarly formulated and labeled products had to be marketed as OTC drugs at the inception of the OTC drug review (May 11, 1972), a date that was later extended to on or before December 4, 1975. In addition, prescription drug products were eligible for the review, but they had to continue to be marketed on a prescription basis while data were being evaluated to ascertain whether the ingredient or combination of ingredients in the product had become generally recognized as safe and effective for OTC use.

The agency emphasizes that this current review is not intended to apply to new chemical entities that have not previously been marketed for OTC use regardless of the claims. Data on such products should be submitted to the agency for evaluation in a new drug application pursuant to 21 CFR part 314. Manufacturers should include any information that would establish that their product is not subject to action under the general regulatory policy described above as part of the data and information submitted in response to this call-for-data. If such information does not exist or is found to be inadequate, such products are at risk of regulatory action being instituted by the agency during the course of this review. To be considered in this review, eight copies of the data and information must be submitted, preferably bound, indexed, and on standard size paper (approximately 8½ by 11 inches). The agency suggests that all submissions be in the format described in 21 CFR 330.10(a)(2).

In accordance with § 330.10(a)(2), all submitted data on eyewash ingredients and claims for first aid relief of acid and alkali burns of the eye(s) will be handled as confidential by the agency. However, all the submitted information will be put on public display in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, 30 days after publication of any proposed rules resulting from the review of the submitted material, except to the extent that the person submitting it demonstrates that it falls within the confidentiality provisions of 18 U.S.C. 1905 or section 301(j) of the act (21 U.S.C. 331(j)). At the time of publications, requests for confidentiality should be submitted to William E. Gilbertson, Center for Drug Evaluation and Research (HFD–210) (address above).

Data and information should be addressed to the Division of OTC Drug Evaluation (address above). Data submitted after the closing date of June 4, 1990, will not be considered except by petition pursuant to § 10.30 (21 CFR 10.30).

As noted above, some of these products are also labeled for use on the skin. The current call-for-data only applies to use of these products in the eyes. Use of these products on the skin will be addressed at a later date in a different OTC drug rulemaking.

Reference

(1) Comment No. AP, Docket No. 80N–0145, Dockets Management Branch.

Dated: November 23, 1989.

James S. Benson,

Acting Deputy Commissioner of Food and Drugs.

[FR Doc. 89–28316 Filed 12–4–89; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 540

Control, Custody, Care, Treatment and Instruction of Inmates; Contact With Media; Withdrawal of Proposed Rule

AGENCY: Bureau of Prisons, Justice.

ACTION: Proposed rule; withdrawal.

SUMMARY: By this document the Bureau of Prisons is withdrawing its proposed rule on Contact With the Media which

was published in the Federal Register on November 28, 1989, in order to allow for further agency review.

DATE: This withdrawal is effective November 30, 1989.

ADDRESS: Office of General Counsel, Bureau of Prisons, room 760, 320 First Street NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 724-3062.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is withdrawing its proposed rule on Contact With the Media which was published in the Federal Register on November 28, 1989 (54 FR 49052).

List of Subjects in 28 CFR Part 540

Prisoners.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(q), the proposed rule on Contact With the Media amending part 540 in subchapter C of 28 CFR, Chapter V published in the Federal Register of November 28, 1989 is withdrawn.

Clair A. Cripe,

Acting Director, Bureau of Prisons.

[FR Doc. 89-28385 Filed 11-30-89; 1:40 pm]

BILLING CODE 4410-05-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 944

Utah Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: OSM is announcing the receipt of a proposed amendment to the Utah permanent regulatory program (hereinafter, the "Utah program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment to the Utah Coal Mining and Reclamation Act pertains to rulemaking authority and procedures; deadline for review and proposal of revision of rules; permit applications, permit findings issued to the applicant and other interested parties; civil penalties for violations; civil actions; dedicated credits, transfer of funds, and investment by State Treasurer; judicial review of rules and orders; and adjudicative procedures that supersede chapter 46b, title 63. The amendment is intended to clarify ambiguities, improve operational efficiency, and incorporate certain State initiatives.

This notice sets forth the times and locations that the Utah program and proposed amendment to that program are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received by 4:00 p.m., m.s.t., January 4, 1990. If requested, a public hearing on the proposed amendment will be held on December 30, 1989. Requests to present oral testimony at the hearing must be received by 4:00 p.m., m.s.t. on December 20, 1989.

ADDRESSES: Written comments should be mailed or hand-delivered to Robert H. Hagen at the address listed below.

Copies of the Utah program, the proposed amendment, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Albuquerque Field Office:

Robert. H. Hagen, Director, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 625 Silver Avenue SW., Suite 310, Albuquerque, NM 87102, Telephone: (505) 766-1486;

Utah Division of Oil, Gas and Mining, 355 West North Temple, 3 Triad Center, Ste. 350, Salt Lake City, UT 84180-1203, Telephone: (801) 538-5340.

FOR FURTHER INFORMATION CONTACT: Robert H. Hagen, Director, Albuquerque Field Office, at the address listed in "ADDRESSES" or Telephone: (505) 766-1486.

SUPPLEMENTARY INFORMATION:

I. Background on the Utah Program

On January 21, 1981, the Secretary of the Interior conditionally approved the Utah program. General background information on the Utah program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Utah program can be found in the January 21, 1981, Federal Register (46 FR 5899). Subsequent actions concerning Utah's program and program amendments can be found at 30 CFR 944.12, 944.15, 944.16, and 944.30.

II. Proposed Amendment

During the ongoing oversight of the Utah program, OSM discovered revisions to the Utah Coal Mining and Reclamation Act that OSM had not previously reviewed and approved. OSM notified Utah by letter dated October 19, 1989, that any changes to Utah's Act that had not been submitted to OSM for approval must be submitted as a State program amendment (administrative record No. UT-536).

By letter dated November 13, 1989, Utah submitted a proposed amendment to its program pursuant to SMCRA (administrative record No. UT-540). The statutes that Utah proposes to amend are: 40-10-6.5, rulemaking authority and procedure; 40-10-6.6, deadline for review and proposal of revision of rules; 40-10-10, permit applications; 40-10-14, permit findings issued to the applicant and other interested parties; 40-10-20, civil penalty for violations; 40-10-21, civil actions; 40-10-25, dedicated credits, transfer of funds, and investment by state treasurer; 40-10-30, judicial review of rules and orders; and 40-10-31, adjudicative procedures that supersede chapter 46b, title 63.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Utah program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than the Albuquerque Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under "FOR FURTHER INFORMATION CONTACT" by 4:00 p.m., m.s.t. on December 20, 1989. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber.

Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to testify have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

Public Meeting

If only one person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under "FOR FURTHER INFORMATION CONTACT." All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under "ADDRESSES."A written summary of each meeting will be made a part of the Administrative Record.

List of Subjects in 30 CFR Part 944

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: November 27, 1989.

Raymond L. Lowrie,

Assistant Director, Western Field Operations.

[FR Doc. 89-28353 Filed 12-04-89; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 58a

[DoD Directive 6485.aa]

Human Immunodeficiency Virus (HIV-1)

AGENCY: Office of the Secretary of Defense.

ACTION: Proposed rule.

SUMMARY: This part establishes the policy promulgate by the August 8, 1988 Deputy Secretary of Defense memorandum on HIV-1/AIDS, as well as several DoD Instructions issued by the Assistant Secretary of Defense (Health Affairs) and the Assistant Secretary of Defense (Force Management and Personnel). The part contains no major policy changes. It denies eligibility for appointment or enlistment for military service to individuals with serologic evidence of HIV-1 infection; requires periodic screening of active duty and Reserve component military personnel for evidence of HIV-1 infection; refers active duty personnel with serologic evidence of HIV-1 infection for a medical evaluation of fitness for continued service in the same manner as personnel with other progressive illnesses; and denies eligibility for extended active duty (duty for a period of more than 30 days) to those Reserve component members with serologic evidence of HIV-1 infection. The Director also provides for the retirement or separation of Service members infected with HIV-1 who are determined to be unfit for further duty; ensures the safety of the blood supply through policies of the Armed Services Blood Program Office, the guidelines of the Food and Drug Administration, and the accreditation requirements of the American Association of Blood Banks; and, complies with statutory limitations on the use of the information obtained from a Service member during or as a result of an epidemiologic assessment interview and the results obtained from laboratory tests for HIV-1. Finally, it establishes an aggressive disease surveillance and health education program, and provides education and voluntary HIV-1 serologic screening for DoD health care beneficiaries. Mandatory testing of civilian is accomplished solely in compliance with host nation requirements.

DATES: Written comments on this proposed rule are due by January 4, 1990.

ADDRESSES: Comments should be sent to: Office of the Assistant Secretary of Defense (Health Affairs), The Pentagon, Room 3D336, Washington, DC 20301.

FOR FURTHER INFORMATION CONTACT: Mr. M. Peterson, telephone (202) 695-7116.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 58a

Armed forces reserves, Human Immunodeficiency Virus, HIV-1, Military personnel.

PART 58a—HUMAN IMMUNODEFICIENCY VIRUS (HIV-1)

Sec.

Authority: 10 U.S.C. 113.

§ 58a.1 Purpose.

This part implements DoD policy on identification, surveillance, and administration of personnel infected with Human Immunodeficiency Virus (HIV-1) and cancels:

(a) Deputy Secretary of Defense memorandum, "Policy on Identification, Surveillance, and Administration, and Administration of Personnel Infected with Human Immunodeficiency Virus (HIV)," August 4, 1988.

(b) Deputy Secretary of Defense memorandum, "Recommendations for Revision of DoD Human Immunodeficiency Virus (HIV) Policy," March 8, 1988.

(c) Assistant Secretary of Defense (Force Management and Personnel) memorandum, "Information and Guidance on HIV for DoD Civilians," January 22, 1988.

(d) Assistant Secretary of Defense (Health Affairs) memorandum, "Policy on Clinical Evaluation, Staging and Disease Coding of Military Personnel Infected with Human Immunodeficiency Virus (HIV)," September 11, 1987.

(e) Assistant Secretary of Defense (Health Affairs) memorandum, "The DoD HTLV-III Testing Program," December 5, 1985.

(f) Assistant Secretary of Defense (Health Affairs) memorandum, "Military Implementation of Public Health Service Provisional Recommendations Concerning Testing Blood and Plasma for Antibodies to HTLV-III," July 17, 1985.

§ 58a.2 Applicability and scope.

The provisions of this part apply to the Office of the Secretary of Defense (OSD), the Military Departments (including their Reserve components), the Joint Chiefs of Staff (JCS), the Joint Staff, the Unified and Specified Commands, and the Defense Agencies (hereafter referred to collectively as

"DoD Components"). The term "Military Services," as used herein, refers to the Army, Navy, Air Force, and Marine Corps.

§ 58a.3 Definitions.

(a) *Serologic evidence of HIV-1 infection.* A positive test by a Food and Drug Administration approved enzyme immunoassay (ELISA) serologic test that is confirmed by a positive immunoelectrophoresis test (Western blot).

(b) *HIV-1/AIDS Education Program.* Any combination of information, education, and behavior change strategics designed to facilitate behavioral alteration that will improve or protect health. Included are those activities intended to support or influence individuals in managing their own health through lifestyle decisions and self-care. Operationally, such programs include community, worksite, and clinical aspects utilizing appropriate public health education methodologies.

§ 58a.4 Policy.

It is DoD policy to:

(a) Deny eligibility for appointment or enlistment for military service to individuals with serologic evidence of HIV-1 infection.

(b) Periodically screen active duty and reserve component military personnel for serologic evidence of HIV-1 infection.

(c) Refer active duty personnel with serologic evidence of HIV-1 infection for a medical evaluation of fitness for continued service in the same manner as personnel with other progressive illnesses as specified in DoD Directive 1332.18.[1] Medical evaluation shall be conducted in accordance with the standard clinical protocol as described in Appendix A of this part. Individuals with serologic evidence of HIV-1 infection who are fit for duty shall not be separated solely on the basis of serologic evidence of HIV-1 infection.

(d) Deny eligibility for extended active duty (duty for a period of more than 30 days) to those Reserve component members with serologic evidence of HIV-1 infection (except under conditions of mobilization and upon the decision of the Secretary concerned). Reserve component members who are not on extended active duty or who are not on extended full time National Guard duty and who show serologic evidence of HIV-1 infection shall be transferred involuntarily to the Standby Reserve only if they cannot be utilized in the Selected Reserve.

(e) Retire or separate Service members infected with HIV-1 who are determined to be unfit for further duty as implemented in DoD Directive 1332.18.

(f) Ensure the safety of the blood supply through policies of the Armed Services Blood Program Office, the guidelines for the Food and Drug Administration, and the accreditation requirements of the American Association of Blood Banks.

(g) Comply with statutory limitations on the use of the information obtained from a Service member during or as a result of an epidemiologic assessment interview and the results obtained from laboratory tests for HIV-1, as provided in this part.

(h) Control transmission of HIV-1 through an aggressive disease surveillance and health education program.

(i) Provide education and voluntary HIV-1 serologic screening for DoD health care beneficiaries.

§ 58a.5 Responsibilities.

(a) The *Assistant Secretary of Defense (Health Affairs)* (ASD(HA)), in coordination with the Assistant Secretary of Defense (Force Management and Personnel) (ASD(FM&P)), the General Counsel, Department of Defense (GC, DoD), and the Assistant Secretary of Defense (Reserve Affairs) (ASD(RA)), is responsible for establishing policies, procedures, and standards for the identification, surveillance, and administration of personnel infected with HIV-1. The ASD(HA) shall provide overall policy guidance and approval for the HIV-1/AIDS education and information efforts and shall establish the HIV-1/AIDS Information and Education Coordinating Committee.

(b) The *Secretaries of the Military Departments* shall establish Service policies, procedures, and standards for the identification, surveillance, education, and administration of personnel infected with HIV-1 based on the policies established by this part.

§ 58a.6 Procedures.

(a) Applicants for military service and, periodically, active duty and reserve component military personnel shall be screened for serologic evidence of HIV-1 infection. Testing and interpretation of results shall be in accordance with the procedures as described in Appendix B to this part.

(b) Applicants for enlisted service shall be screened at the Military Entrance Processing Stations (MEPS) or the initial point of entry to military service. Officer candidates shall be screened during their pre-appointment and/or pre-contracting physical examination.

(c) The administration of officer applicants who are ineligible for appointment due to serologic evidence of HIV-1 infection shall be in accordance with the procedures as described in Appendix C to this part.

(d) Applicants for Reserve components shall be screened during the normal entry physical examinations or in the pre-appointment programs established for officers. Those individuals with serologic evidence of HIV-1 infection who are required to meet accession medical fitness standards in order to enlist or be appointed are not eligible for military service with the Reserve components.

(e) Initial testing and periodic retesting of active duty and Reserve component personnel shall be accomplished in the priority listed in Appendix D of this part.

(f) Active duty personnel (including active Guard/Reserve shall receive a medical evaluation for serologic evidence of HIV-1 infection in accordance with the procedures in Appendices A, D, and E to this part.

(g) Each Military Service shall appoint an HIV-1/AIDS education program coordinator to serve as the focal point for all HIV-1/AIDS education program issues and to integrate the activities of the medical and personnel departments.

(h) An HIV-1/AIDS Information and Education Coordinating Committee shall be established to enhance communication among the Military Services, recommend joint policy and program actions, review program implementation, and recommend methodologies and procedures for program evaluation. The Committee shall be chaired by OASD(HA). Additional members shall include two representatives from the Office of the Assistant Secretary of Defense (Force Management and Personnel) and the HIV-1/AIDS education program coordinator from each Military Service.

(i) Each Military Service shall prepare a plan for the implementation of a comprehensive HIV-1/AIDS education program that includes specific objectives with measurable action steps. The plan shall address information, education, and behavior change strategies as described in Appendix D to this part.

(j) Mandatory screening of civilians (inlcuding DoD contractor personnel and their families) for serologic evidence of HIV-1 infection for sponsorship,

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, Attn: Code 1053, 5801 Tabor Avenue, Philadelphia, PA 19120.

employment, or assignment overseas is not authorized except pursuant to valid requirements imposed by the host country. Information and guidance on civilian issues is described in Appendix F to this part.

(k) The medical assessment of each exposure to and/or case of HIV–1 infection seen at a military medical treatment facility shall include an epidemological assessment of the potential transmission of HIV–1 to other persons at risk of infection, including sexual and other intimate contacts and family of the patient. The occurrence of HIV–1 infection or serologic evidence of HIV–1 infection shall not be used as a basis for any disciplinary action against an individual, except as described in Appendix G to this part.

(l) Each military medical service shall conduct on ongoing clinical evaluation of each active duty Service member with serologic evidence of HIV–1 infection at least annually (CD4 lymphocyte percentages or counts monitored at least every 6 months), provide appropriate preventive medicine counseling to all individual patients, and provide public health education materials to that medical services' beneficiary population. Each military medical service shall conduct longitudinal clinical evaluations of active duty Service members with serologic evidence of HIV–1 infection and prepare internal reports to facilitate timely review and reassessment of current policy guidelines.

(m) All military medical treatment organizations, inlcuding physicians, hospitals, medical clinics, other health care facilities, and clinical laboratories, shall notify promptly the cognizant military health authority whenever a diagnosis of HIV–1 infection is made or whenever laboratory examination of any specimen derived from the human body yields microscopic, cultural, immunologic, serologic, or other evidence indicative of infection with HIV–1 in accordance with Appendix H to this part.

(n) Each Military Department shall ensure that a mechanism is established to gather data on the epidemiology of HIV–1 infection of its members. Such epidemiological research shall be accomplished in a manner to assure appropriate protection of information given by the Service member regarding the means of transmission. The Department of the Army, as the lead agency for infectious disease research within the Department of Defense, shall budget for and fund DoD HIV–1 research efforts in accordance with guidance provided by the ASD(HA). The research program shall focus on the epidemiology and natural history of HIV–1 infections in military and military associated populations; on improving the methods for rapid diagnosis and patient evaluation; and, on studies of the immune response to HIV–1 infection, including the potential for increased risk in the military operational environment.

(o) Service members with serologic evidence of HIV–1 infection shall be assigned within the United States. Additionally, the Secretaries of the Military Departments may restrict such individuals to non-deployable units or positions for purposes of force readiness. Further, in order to protect the health and safety of Service members with serologic evidence of HIV–1 infection and of other Service members (and for no other reason), the Secretaries of the Military Departments may, on a case-by-case basis, limit assignment of HIV–1 infected individuals with respect to the nature and location of the duties performed in accordance with operational requirements.

(p) Active duty and Reserve component personnel with serologic evidence of HIV–1 infection shall be retained or separated in accordance with Appendix I to this part.

(q) The ASD(HA) may revise the standard clinical protocol (Appendix D to this part), as appropriate.

Appendix A to Part 58a—Standard Clinical Protocol

A. Medical Evaluation

1. A complete medical evaluation shall be accomplished at least annually on all individuals with serologic evidence of HIV–1 infection. This medical evaluation shall be documented in a manner consistent with the Medical Evaluation Board requirements of each Service.

2. The medical work-up shall, at a minimum, include the following:

a. History and physical examination, to include a neurological and neuropsychiatric evaluation.

b. CBC with differential and platelet count.

c. Total lymphocyte count, total T-cell count, and absolute CD4 and CD8 levels.

d. Chest x-ray (PA and lateral).

e. Skin tests (IPPD, mumps, trichophyton, candida, tetanus).

f. Lumbar puncture with CSF differential, total protein, protein electrophoresis, and serology.

3. Because of high association of HIV–1 infection with other sexually transmitted diseases, the work-up shall include tests for syphilis, hepatitis (Anti-HAV, HBsAg, and Anti-HBc), urethritis, and cervicitis or proctitis.

4. The Surgeon General of each Military Department shall designate component military MTFs which are to be used to evaluate and treat individuals with serologic evidence of HIV–1 infection. The initial evaluation and annual re-evalution of Service members with serologic evidence of HIV–1 infection shall ordinarily be accomplished within the individual's respective Military Department. In the case of symptomatic individuals, subsequent hospitalizations or continuation of care following the initial evaluation may be at any designated MTF within DoD.

5. A frozen blood specimen on all HIV–1 positive individuals shall be maintained. The Military Departments shall maintain central serum banks.

6. The following shall be included in the minimum psychiatric evaluation screening of HIV–1 infected individuals at the initial and follow-up evaluations:

a. Questionnaire assessing sociodemographic and psychosocial risk factors relating to suicide, drug and alcohol abuse, and major mental illness.

b. Michigan Alcohol Screening Test (MAST).

c. Evaluation of the red blood cell mean corpuscular volume (MCV), which frequently increases in chronic alcohol use. Other factors, such as prescription drug effects and other medical illnesses, can elevate the MCV and should be identified when assessing the significance of this screening parameter.

d. Perceived Social Support Questionnaire.

e. SCL–90R. This should be evaluated in the context of non-psychiatric patient norms with a cutoff of greater than 2 standard deviations.

f. Standard mental health evaluation by a psychiatric nurse, psychiatric social worker, psychologist, trained non-psychiatric physician, or psychiatrist depending on local MTF resources.

g. Referral to Psychiatry Consultation Liaison if any of the above suggest a potential problem.

B. Armed Forces HIV–1 Disease Classification

1. All patients with either serologic evidence of HIV–1 infection or a positive virus isolation shall be classified according to the following scheme:

Class	HIV-1 antibody and/or virus isolation	Chronic lymphadenopathy	T-Helper cells/cubic millimeter	DHS	Thrush	O.I.
1	+	−	400	WNL		
2	+	+	400	WNL		
3	+	±	400	WNL		
4	+	±	400	P		
5	+	±	400	P/C	+	
6	+	±	400	P/C	+/−	+

2. Because of the natural variability of the number of T-helper cells, classification of HIV–1 infections shall not be based on a single T-helper cell determination. A second count at an interval of at least 1 month is required if the initial CD4 absolute number of less than 400 cells/cubic millimeter. The higher of the two counts shall be used for purposes of staging. All HIV–1 infected personnel shall have CD4 lymphocyte percentages or counts monitored at least every 6 months.

There are a small number of patients who cannot be readily classified using the above scheme. When a patient falls between two classes the lower class shall be selected, e.g., select class 4 if patient falls between class 4 and class 5.

4. Classes 1 through 6 require demonstration of the presence of HIV–1 anitbody to structural proteins and/or HIV–1 virus isolation.

5. An individual will occasionally be found with at least 400 T–helper cells per cubic millimeter who demonstrates cutaneous anergy. In staging, if the CD4 number is 400 cells/cubic millimeter or greater, the individual will be placed in class 2, except when thrush is present (see 6 below).

6. Class 5 is defined by the occurrence of either complete anergy (DHS=C) or partial anergy (DHS=P) with thrush.

7. The presence of symptoms is denoted by the addition of the letter B after the class, e.g., class 5B. Symptoms are defined as fever greater than 100.5 F for 3 weeks, unexplained weight loss of greater than 10 percent of body weight over 3 months, night sweats for at least 3 weeks, or chronic diarrhea for at least 1 month. Many of these patients can be documented to have an occult opportunistic infection by a careful and complete reevaluation.

8. Kaposi's sarcoma is designated by adding the letter K after the appropriate class, e.g., class 4K. Current evidence suggests that this neoplastic process is not dependent on sever T-helper cell depletion.

9. The occurrence of other neoplasms is designated by adding the letter N after the appropriate class, e.g., class 4N.

10. Central nervous system HIV–1 is neurologic disease (demyelinating disease, encephalopathy and/or neuropathy) secondary to infection of the nervous system by HIV–1 itself and is designated by adding CNS after the appropriate stage, e.g., class 4CNS. An abnormal CSF (e.g., pleocytosis, increased CSF protein, increased CSF IgG, or oligoclonal bands) does not alone warrant this designation.

11. HIV–1 antibody is defined as the presence of antibody to the structural proteins of HIV–1 as determined by Western blot techniques or supplemental tests. HIV–1 virus isolation also fulfills criteria to document infection.

12. Chronic lymphadenopathy is defined as two or more extrainguinal sites with lymph nodes greater than or equal to 1 centimeter in diameter that persist for more than 3 months.

13. T-helper cells are expressed as cells/cubic millimeter. Quantitative depletion must be persistent for at least 1 month to be placed in class 3 or a higher class.

14. Delayed hypersensitivity (DHS) is defined as within normal limits (WNL) when an intact cutaneous response to at least 2 of the following 4 test antigens is observed: tetanus, trichophyton, mumps, and candida. A partial (P) response is defined as an intact cutaneous response to only one of the above 4 antigens. The letter C represents complete cutaneous anergy to all 4 test antigens.

15. Thrush is defined as clinical oral candidiasis including a positive KOH preparation.

16. Opportunistic infection (O.I) is marked positive when infections such as pneumocystis carinii pneumonia, CNS or disseminated toxoplasmosis, chronic cryptosporidiosis, candida esophagitis, disseminated histoplasmosis, CNS or disseminated cryptococcosis, disseminated atypical mycobacterial disease, extrapulmonary tuberculosis, disseminated nocardiosis, disseminated CMV, or chronic mucocutaneous herpes simplex occur. Other disseminated or chronic nonself-limited infections with agents in which cellular immunity plays a privotal role in host defense (i.e., viral, parasitic, fungal, mycobacterial, certain other bacterial agents) should be anticipated to cause opportunistic disease in patients with classes 5 and 6. Kaposi's sarcoma does not in and of itself fulfill staging criteria for class 6.

C. Medical Record Coding of HIV–1 Infections

1. MTFs shall use both the 0400 and V codes from the ICD 9–CM. The V codes were developed to support the DoD classification system and remain unchanged. The appropriate V code shall be used whenever an individual is evaluated by an MTF. They can be used alone following the initial screening process or in conjunction with the 0400 codes. The following 0400 codes describe the site of infection and are compatible with civilian practice:

Code	Description
0420	HIV-1 Infection with Specified Infections
0421	HIV-1 Infection causing other Specified Infections
0422	HIV-1 Infection with Specified Malignant Neoplasms
0429	AIDS with or without other Conditions
0430	HIV-1 Infection causing Lymphadenopathy
0431	HIV-1 Infection causing Specified Disease of CNS
0432	HIV-1 Infection causing other Disorder of Immune Mechanism
0433	HIV-1 Infection causing other Specified Conditions
0439	AIDS-Related Complex with or without other Conditions
0440	HIV-1 Infections causing Specific Acute Infections
0449	HIV-1 Infection not otherwise Specified
V73.71	Human Immunosuppressive Virus-1 (HIV-1) Antibody Positive, class 1 of infection
V73.72	As above, class 2 of infection
V73.73	As above, class 3 of infection
V73.74	As above, class 4 of infection
V73.75	As above, class 5 of infection
V73.76	As above, class 6 of infection
V73.79	HIV-1 Antibody Positive, class of infection unspecified
V72.60	Serologic Test Only—HIV-1 Antibody Negative (ELISA or comparable screening test negative) N.B., A single positive ELISA which is negative and on repeat ELISA testing is negative
V72.61	Serologic Test Only—HIV-1 Antibody Unconfirmed (Repeatedly Reactive ELISA with negative WB)
V72.62	Serologic Test Only—HIV-1 Antibody Positive (WV or comparable antibody assay positive)
V72.69	Other Laboratory Examination

D. Disposition of Individuals Infected

1. The Armed Forces classification system shall not be used solely for determinations of disability/unfitness for duty. Fitness for duty

determinations shall be in accordance with DoD Directive 1332.18.

2. Service members infected with HIV–1 who show signs of immunological deficiency (e.g., persistent reduction in their level of T-helper lymphocytes below 400 cells/cubic millimeter for greater than 1 month without other demonstrable cause; reduced or absent delayed hypersensitively as measured by the standardized battery of skin tests; development of thrush; increased susceptibility to either common or uncommon infections; and, more severe episodes of infection than usually seen with a given organism) and/or a progressive clinical illness (e.g., development of neurological manifestations; Kaposi's sarcoma; other lymphoreticular malignancies; thrombocytopenia; diffuse, persistent lymphadenopathy; unexplained weight loss, diarrhea, anorexia, fever, malaise or fatigue) shall be referred to a Medical Evaluation Board regardless of the clinical state of the disease.

Appendix B to Part 58a—HIV–1 Testing and Interpretation of Results

A. Laboratories

1. In-house laboratories shall be used to conduct the initial test on clinical specimens collected outside the continental United States and on blood banking specimens.

2. Either in-house or contract laboratories shall be used to conduct the initial test on CONUS Service member specimens.

3. Confirmatory testing shall be limited to not more than two contract laboratories since the confirmatory test is subjective and tight controls must be maintained on both the procedures and interpretation of results.

4. After awarding a contract, final approval of the laboratory shall be contingent on an inspection by the appropriate Service. The laboratory must correctly identify 95 percent of the samples in an open panel (20 specimens) provided by a reference laboratory. The inspection shall focus on the laboratory facilities, standard operation procedure manuals, training of technicians, specimen handling procedures, reporting capabilities, and internal quality control procedures.

5. The Services shall conduct a semi-annual quality assurance inspection of each contract laboratory.

6. All specimens positive on the confirmatory test shall be stored frozen.

B. Specimen Collection and Handling

1. Blood samples shall be collected using appropriate vacutainer tubes.

2. At a minimum each sample shall have a label containing the individual's social security number and a laboratory assigned number.

3. Centrifuge samples and separate serum within 6 hours of collection.

4. Specimens shall be refrigerated prior to the initial test. If the initial test is not conducted within 7 days, or is unknown, the specimens shall be frozen.

5. Cold packs or dry ice shall be used to maintain specimens at refrigerated temperatures during transit between laboratories.

C. Initial Test

1. The initial test shall be conducted using an FDA approved ELISA test kit and results interpreted according to the manufacturer's package insert.

2. The laboratory shall establish an internal quality control program that includes a minimum total of 10 percent quality control samples per batch (e.g., standards, negatives, positive controls, and blind samples).

3. All controls and blinds shall be 100 percent correct before the entire batch results are considered acceptable.

D. Confirmatory Test

1. Each laboratory preforming the Western blot (WB) test shall conduct the test using a scientifically acceptable procedure.

2. The laboratory shall validate its procedure using a protocol that establishes, at a minimum, the accuracy, precision, and reproducibility of the method.

3. The internal quality control program shall include a minimum total of 20 percent quality control samples (e.g., standards, negatives, positive controls, blind samples).

4. WB test results shall be interpreted as follows:

a. Positive when it exhibits at least two or three bands at p24, gp41, and gp120/160.

b. Negative when it exhibits no bands.

c. An indeterminate shall be resolved using supplemental tests of a different technology. The following scheme shall be used to report results when supplemental testing is conducted to resolve indeterminate WB results.

Lab test	Result						
First ELISA	−	+	+	+	+	+	+
2nd/3rd ELISA		−	+	+	+	+	+
Western blot	−	+	−/−	+/−	+/−	+/−	
Supplemental				−	+	+/−	
Laboratory Report	−	−	−	+	−	+	−

+ =positive
− =negative
+/− =indeterminate

E. Reference Laboratory and External Proficiency Testing

1. Each Military Department shall establish a reference laboratory to provide panels of specimens to its blood banks conducting ELISA testing, to its contract laboratories conducting Western blot testing, and to the reference laboratories of the other Services.

2. The open panels shall consist of 20 specimens containing approximately 50 percent negatives and 50 percent positives.

3. The panels shall be provided at least quarterly. Each laboratory shall report correctly 95 percent of the samples.

4. The Military Departments shall retain the responsibility to interpret all confirmatory results on specimens analyzed by contract laboratories.

5. The specific requirements for the external proficiency testing program (number of blind and open samples, frequency, criteria for acceptable performance, etc) shall depend on the workload of each laboratory doing confirmatory testing.

Appendix C to Part 58a—Administration of Officer Applicants

Administration of officer applicants who are ineligible for appointment due to serologic evidence of HIV–1 infection shall be in accordance with the following provisions:

1. Enlisted members who are candidates for appointment through Officer Candidate School (OCS) or Officer Training School (OTS) programs shall be disenrolled immediately from the program. If OCS/OTS is the individual's initial entry training, the individual shall be discharged. If the sole basis for discharge is serologic evidence of HIV–1 infection, an honorable or entry level discharge, as appropriate, shall be issued. A candidate who has completed initial entry training during the current period of service prior to entry into candidate status shall be administered in accordance with Service regulations.

2. Individuals in pre-appointment programs such as Reserve Officer Training Corps (ROTC) shall be disenrolled from the program. However, the Secretary of the Service concerned, or the designated representative, may delay disenrollment to the end of the academic term (i.e., semester, quarter, or similar period) in which serologic evidence of HIV–1 infection is confirmed. Disenrolled participants shall be permitted to retain any financial support through the end of the academic term in which the disenrollment is effected. Financial assistance received in these programs is not subject to recoupment if the sole basis for disenrollment is serologic evidence of HIV–1 infection.

3. Service academy cadets and midshipmen shall be separated from the respective Service academy and discharged. The Secretary of the Service concerned, or the designated representative, may delay separation to the end of the current academic year. A cadet or midshipman granted such a delay in the final academic year, who is otherwise qualified, may be graduated without commission and thereafter discharged. If the sole basis for discharge is serologic evidence of HIV–1 infection, an honorable discharge shall be issued.

4. Commissioned officers in DoD sponsored professional education programs leading to appointment in a professional military specialty (including but not limited to medical, dental, chaplain, and legal/judge advocate) shall be disenrolled from the program at the end of the academic term in which serologic evidence of HIV–1 infection is confirmed. Disenrolled officers shall be administered in accordance with Service regulations; except as specifically prohibited by statute, any additional service obligation incurred by participation in such programs shall be waived and financial assistance received in these programs shall not be subject to recoupment. Periods spent by such officers in these programs shall be applied fully toward satisfaction of any pre-existing service obligation.

Appendix D to Part 58a—Disease Surveillance and Health Education

A. General

Prevention of harm to personnel with serologic evidence of HIV–1 infection and control of transmission of HIV–1, a communicable disease, are dependent on an aggressive disease surveillance and health education program. Those persons whose behaviors put them and others at high risk of infection, followed by those who are infected, shall receive the highest priority for information, education, and behavior change programs.

B. Disease Surveillance

1. Periodic retesting of personnel shall be accomplished in the following priority order:

a. Military personnel serving in, or subject to deployment in short notice to, areas of the world with a high risk of endemic disease or with minimal existing medical capability.

b. Military personnel serving in, or pending assignment to, all other overseas permanent duty stations.

c. Military personnel serving in units subject to deployment overseas.

d. Other military personnel or units deemed appropriate by the respective Military Department, such as medical personnel involved in the care of HIV–1 infected patients, patients being treated for sexually transmitted diseases or presenting at sexually transmitted disease clinics, patients being treated for alcohol and drug abuse or admitted to alcohol and drug rehabilitation units, and patients at prenatal clinics.

e. All remaining military personnel in conjunction with routinely scheduled periodic physical examinations.

2. Active duty personnel (to include active Guard/Reserve) with serologic evidence of HIV–1 infection shall receive a medical evaluation to determine the status of their potential infection and the potential adverse consequences to the individual of serving in a particular geographic region. Documentation of the medical evaluation shall be equivalent to the medical board component of the Physical Evaluation Board process. The standard clinical protocol at Appendix A to this part shall be used to ensure consistent evaluation and classification of patients at all military medical treatment facilities. These individuals shall be counseled regarding the significance of a positive HIV–1 antibody test and referred to their private physicians for medical care and counseling.

3. The surveillance of military personnel for HIV–1 infection is being accomplished for force readiness reasons. It is also essential that all reasonable efforts be made to afford protection and education to our other health care beneficiaries on effective means to contain this disease.

4. For medical and public health purposes, an appropriate and vigorous HIV–1/AIDS education program and voluntary HIV–1 serologic screening program shall be offered to all beneficiaries of the military health care system in accordance with published recommendations of the U.S. Public Health Service and as indicated by standard medical practice. HIV–1 serologic screening shall be offered to beneficiaries presenting with sexually transmitted disease and at sexually transmitted disease clinics, with alcohol and drug abuse problems and at alcohol and drug rehabilitation units, and at prenatal clinics.

5. Beneficiaries who are concerned about whether they have been exposed to HIV–1 should consult with local DoD medical personnel. As is the procedure for other medical problems, such as, other sexually transmitted disease, cardiovascular disease, breast cancer, and hepatitis, the beneficiary may obtain an appointment and discuss his or her concerns directly with the physician. The appropriate supporting tests, including laboratory evaluation, shall be determined by the physician.

C. Health Education

Health education shall be accomplished within the following program framework:

ATTACHMENT TO APPENDIX D TO PART 58A—DOD HIV–1 AIDS INFORMATION AND EDUCATION PROGRAM FRAMEWORK

Goal	Verification	Assumptions
Reduction is occurrence of HIV–1 infection in military personnel and other DoD beneficiaries.	Statistics, as available resulting from testing done by Services.	All active duty tested initially and results available; all active duty tested periodically.
Objectives		
1. Provide information, education/behavior change programs on the prevention of HIV–1 infection and AIDS.	DoD survey measuring knowledge and attitudes about high risk behavior.	Information, education and behavior change programs promote behavioral risk reduction; DoD survey will continue.
	Identified programs targeting recruits at point of entry; commanders and supervisors; personnel overseas, drug and alcohol orientations, ROTC, and Service Academies.	Mass media resources including print, radio, and TV is an essential component of a comprehensive program.
2. Implement programs to provide information on the prevention of HIV–1 infection and AIDS to students in DoD schools.	Survey measuring knowledge and attitudes about HIV–1 infection and AIDS.	
	Curriculum includes the prevention of HIV–1 infection...	
3. Provide information, education, and motivation programs to those persons infected or whose behaviors put them and others at high risk of infection.	Annual Service-wide assessment of program availability, accessibility and utilization.	Requires strong involvement of medical, nursing, drug and alcohol, and dental personnel.
	Identified programs targeting patients in sexually transmitted disease clinics, drug and alcohol rehab programs, family planning clincis, and blood banks.	
4. Provide information and education programs for health care personnel on HIV–1 and AIDS, addressing the needs of patients and staff.	Evaluation by Services of the extent to which all appropriate health care providers are integrated in the prevention efforts.	Key to changing attitudes/behaviors is the provision of factual information from persons in whom the recipient has confidence.
	Assessment of knowledge and program implementation by physicians nurses, dentists, and other health care providers.	Health care providers have current information about the disease. Infection control training is OSHA requirements.
	Identified programs targeting health care personnel, drug and alcohol counselors, emergency response personnel (police, fire, security, EMS).	

Activities	Measure of accomplishment	Assumptions
Information, Education, and Behavior Change Programs and Resources Targeting—		
A. *Person to Person*		
—Persons infected or at increased risk (including family members).		
—Patients seen in sexually transmitted disease clinics, drug and alcohol rehab programs, and prenatal clinics, clinical laboratories and blood banks, family planning clinics, and other appropriate group clinics/classes.		
—Occupational health program patients particularly at-risk occupational groups.		
B. *Groups*		
—DoDDS teachers and students		
—Health Care Personnel		
—Commanders and Supervisors		
—Drug and Alcohol Counselors		
—Emergency Personnel: Police, fire, security, etc		
—Health Care Beneficiaries Overseas		
—Recruits at points of entry into the Services		
—Drug and alcohol orientations and Service treatment programs.		
—Chaplains		
—Parent, family, and youth support programs		
—ROTC and Service Academies		
—Family and community service centers, child care providers.		
C. *Mass Media*		
—Print media		
newspapers, journals, posters, printed under DoD sponsorship.		
—Radio and Televsion		

Appendix E to Part 58a—Procedure For Evaluating T-Helper Cell Count

A. Analytical Procedure

1. Each laboratory performing T-helper cell counts shall maintain a current and complete standard operating procedure manual. The absolute T-helper cell count is a product of the percentage of T-helper cells (defined as CD4 positive lymphocytes) and the absolute lymphocyte level. The percentage of CD4 positive lymphocytes is determined by immunophenotyping blood cells using flow cytometry instrumentation. The absolute lymphocyte count is determined using hematology instrumentation.

2. Flow cytometry instruments shall be equipped for two-color fluorochrome analysis with an electronic compensator to offset the spectral overlap of the most commonly used fluorochromes, fluorescein and pyhcoerythrin. Additionally, equipment shall have logarithmic scale capability with a minimum measured output of 3 decades and provide simultaneous 4 parameter analysis including right angle light scatter, forward light scatter, green fluorescence, and red fluorescence.

3. Flow cytometry analysis shall be capable of distinguishing between the following cell surface phenotypic expressions: CD2, CD3, CD4, CD8, CD14, CD45, and a B lymphocyte marker of either CD19 or CD20 specificity. All monoclonal antibody reagents shall be conjugated with either fluorescein isothiocyanate or phycoerythrin. Due to the ready availability of directly conjugated monoclonal reagents, no indirect staining procedures shall be used for the above lymphocyte markers. A monoclonal antibody that does not universally identify CD4 cells in all specimens shall not be used for the determination of CD4 lymphocytes. Only reagents with specificity to CD2, CD3, CD4, CD8, CD14, CD19, CD20, and CD45 are acceptable under this procedure.

4. Blood specimens for the absolute lymphocyte count and lymphcyte immunophenotype shall be drawn during the same venipuncture between 0600 and 0900 hours. The absolute lymphocyte count shall be performed on an ethylenediamine tetraacetate (EDTA) anticoagulated whole blood specimen within 4 hours of specimen collection. The absolute lymphocyte count shall be determined on an automated hematology instrument with a locally verified inter-run and intra-run coefficient of variation of less than 5 percent. The whole blood lysate procedure shall be used for low cytometry cell preparations. Flow cytometry specimens shall be stained and lysed within a time period which has been locally demonstrated to yield an overall cell viability greater than the 90 percent. Blood specimens shall be stained and lysed by a standard method which shall be detailed in the laboratory's standard operating procedure manual. All blood specimens for cell surface phenotyping shall be analyzed for nonspecific binding with vendor-matched, isotype-matched, and conjugate-matched control antibody reagents for each test antibody used. As this standard applies to lymphocyte immunophenotyping, lymphocyte populations shall be defined by those cells gated on forward and right angle light scatter that are at least 95 percent positive for CD45 (the brightest CD45 population which is specific for lymphocyte) and no more than 5 percent positive for CD14.

B. Internal Quality Control Program

1. Each laboratory shall maintain a comprehensive internal quality control program. On each day of operation, at a minimum, the following flow cytometry procedures or reagents shall be monitored:

a. Optical focusing and alignment of all lenses and light paths for forward angle light scatter, right angle light scatter, red fluorescence, and green fluorescence.

b. Fluorescent intensity beads, particles or cells with fluorescence in the range of biological samples.

c. Fluorescent compensation beads, particles or cells with fluorescence in the range of biological samples.

d. A human blood control sample.

2. Each laboratory shall establish tolerance limits for each of the above procedures or reagents. Appropriate corrective action shall be taken and documented when any quality control reagent exceeds established tolerance limits. Routine maintenance and function verification checks shall be accomplished in a timely fashion. The laboratory director shall review corrective and quality control records regularly.

C. External Quality Control Program

The Army is responsible for establishing and operating an external quality control program to evaluate the results reported by the flow cytometry laboratories. The external quality control program shall include a hematology survey to monitor the performance of the absolute lymphocyte count and a flow cytometry survey to monitor the performance of each immunophenotyping procedure.

D. Recording and Reporting Data

The laboratory director shall review and verify the reported results. The laboratory report shall contain data from which absolute and relative values may be calculated for each lymphocyte subpopulation along with locally derived normal ranges inclusive of the fifth and ninety-fifth percentiles. The laboratory shall maintain permanent files of reports, internal and external quality control records, and instrument maintenance and performance verification checks.

E. Personnel Qualifications

1. The importance of accurate flow cytometry determinations requires that all personnel involved with the flow cytometry instrumentation be properly trained.

2. The director of the flow cytometry laboratory shall hold a doctoral degree in a biologic science or be a physician, and shall possess experience in immunology or cell biology.

3. A supervisor, if applicable, shall hold a bachelor's degree in a biological science and have at least 2 years experience in flow cytometry.

F. Safety

All laboratories shall comply with the biosafety level 2 standards established by the Centers for Disease Control. All procedures having the potential to create infectious aerosols shall be conducted within the confines of a Class II biological safety cabinet. Although certain specimen processing procedures may inactivate infectious agents, all materials shall be treated as infectious throughout all procedures. All material generated in the processing and evaluation of blood specimens shall be decontaminated and disposed of according to established hazardous waste disposal policies.

Appendix F to Part 58a—HIV–1 Testing of DoD Civilian Employees

A. Screening

1. Mandatory screening of DoD civilian employees for serologic evidence of HIV–1 infection is not authorized except pursuant to specific, valid requirements imposed by host countries where DoD civilian employees may be assigned to perform their official duties.

2. Voluntary testing, periodic retesting, and recording of test results are authorized for DoD employees, who, in the performance of their official duties, are exposed to the blood or body fluids of an individual infected with HIV–1, in accordance with the provisions of DoD 6055.5–M. Generally, such employees hold positions in health care occupations or in other positions that may involve the administration of emergency medical care.

B. Personnel Disposition

The Department of Defense endorses the information and guidance issued by the Office of Personnel Management (OPM) to facilitate the proper handling of personnel situations where HIV–1/AIDS is a factor as listed in Federal Personnel Manual (FPM) System Bulletin 793–42. The OPM guidance recognizes that:

1. The kind of nonsexual person-to-person contact that occurs among workers and clients in the workplace does not pose a risk for transmission of HIV–1.

2. HIV–1 infected employees shall be allowed to continue working as long as they are able to maintain acceptable performance and do not pose a safety or health threat to themselves or others in the workplace. In all cases, the employee's right to privacy shall be carefully observed.

3. In cases where HIV–1 infection results in medical conditions which impair the employee's health and ability to perform safely and effectively, the employing activity shall treat the HIV–1 infected employee in the same manner as those who suffer from other serious illnesses. Employees with AIDS-related conditions shall be accommodated in the same manner that other medical conditions warrant.

4. Applicants for employment may not be denied employment solely on the basis of HIV–1 infection, and current employees may not be denied consideration for promotions, transfers, reassignment, or similar actions (including overseas assignment), except as in subsection B.3. of this Appendix.

5. Information and training shall be provided. The scope and content of training shall be appropriate to the setting and the audience. All supervisors, for example, shall have at least basic information about the guidelines and policies that apply to HIV–1/AIDS in the workplace. Such information may be communicated as a part of basic supervisory training or through the distribution of printed material. More comprehensive training may be necessary to respond to specific employee concerns. Training materials may be obtained through local health organizations, military health care facilities, and the Office of Personnel Management.

Appendix G to Part 58a—Limitations on the Use of Information

A. Limitations of Results

1. Results obtained from laboratory tests performed under this program shall not be used as the sole basis for separation of a Service member, but may be used to support a separation based upon physical disability or as specifically authorized by this part.

2. Laboratory test results confirming the serologic evidence of HIV–1 infection shall not be used as an independent basis for any disciplinary or adverse administrative action. However, such results may be used for other purposes, including, but not limited to:

a. In a separation under the accession testing program.

b. In a voluntary separation for the convenience of the government.

c. In any other administrative separation action authorized by DoD policy.

d. In any other manner consistent with law or regulation (e.g., the Federal or Military Rules or Evidence or the rules of evidence of a state), including to establish the HIV–1 seropositively of a Service member:

(1) Who disregards the preventive medicine counseling or the prevention medicine order, or both, in an administration or disciplinary action based on such disregard of disobedience.

(2) As an element in any permissible administrative or disciplinary action, or in any criminal prosecution (e.g., as an element of proof of an offense charged under the Uniform Code Military Justice or under the code of a state or the United States).

(3) As a proper ancillary matter in an administrative or disciplinary action, or in any criminal prosecution (e.g., as a matter in aggravation in a court-martial in which the HIV–1 positive Service member is convicted of an act of rape committed after being informed that he is HIV–1 positive).

B. Limitations on the Use of Information Obtained in the Epidemiological Assessment Interview

Information obtained from a Service member during or as a result of an epidemiologic assessment interview shall not be used against the Service member in a court martial; nonjudicial punishment; involuntary separation (other than for medical reasons); administrative or punitive reduction in grade; denial of promotion; an unfavorable entry in a personnel record; a bar to reenlistment; or any other action considered by the Secretary of the Service concerned to be an adverse personnel action.

1. The above limitations do not apply to the introduction of evidence for impeachment purposes in any proceeding in which the evidence of drug abuse or relevant sexual activity (or lack thereof) has been first introduced by the Service member or to disciplinary or other action based on independently derive evidence.

2. The above limitations do not apply to, on a case-by-case basis, nonadverse personnel actions, such as reassignment; disqualification (temporary or permanent) from a personnel reliability program; denial, suspension, or revocation of a security clearance; suspension or termination of access to classified information; and removal (tempoarary or permanent) from flight status or other duties requiring a high degree of stability or alertness, including explosive ordnance disposal or deep-sea diving.

C. General

Except as authorized by this part, if any such personnel actions are taken because of or are supported by serologic evidence of HIV–1 infection or information as described in section A., of this Appendix, no unfavorable entry shall be placed in a personnel record in connection with such actions. Recording a personnel action is not itself an unfavorable entry in a personnel record. Additionally, information that reflects that an individual has serologic or other evidence of infection with HIV–1 is not an unfavorable entry in a personnel record.

Appendix H to Part 58a—Personnel Notification and Epidemiological Investigation

A. Personnel Notification

1. Upon notification by a medical health authority of an individual with serologic or other laboratory or clinical evidence of HIV–1 infection, the cognizant military health authority shall undertake preventive medicine intervention including counseling of the individual and others at risk of infection, such as his or her sexual contacts (who are

military health care beneficiaries), regarding transmission of the virus. The cognizant military health authority will coordinate with military and civilian blood bank organizations to trace back possible exposure through blood transfusion or donation of infected blood and refer appropriate case-contact information to the appropriate military or civilian health authority.

2. All individuals with serologic evidence of HIV–1 infection who are military health care beneficiaries shall be counseled by a physician or designated health care provider regarding the significance of a positive antibody test. They shall be advised as to the mode of transmission of this virus, the appropriate precautions and personal hygiene measures required to minimize transmission through sexual activities and/or intimate contact with blood or blood products, and of the need to advise any past sexual partners of their infection. Women shall be advised of the risk of perinatal transmission during past, current and future pregnancies. The infected individuals shall be informed that they are ineligible to donate blood and shall be placed on a permanent donor deferral list.

3. Service members identified to be at risk shall be counseled and tested for serologic evidence of HIV–1 infection. Other DoD beneficiaries, such as retirees and family members, identified to be at risk and offered serologic testing, clinical evaluation, and counseling. The names of individuals identified to be at risk who are not eligible for military health care shall be provided to local civilian health authorities unless prohibited by the appropriate state or host nation civilian health authority. Anonymity of the HIV–1 index case shall be maintained unless reporting is required by civil authorities.

B. Epidemiological Investigation

1. Epidemiological investigation shall attempt to determine potential contacts of patients who have serologic or other laboratory or clinical evidence of HIV–1 investigation. The patient shall be informed of the importance of case-contact notification to interrupt disease transmission and shall be informed that contracts will be advised of their potential exposure to HIV–1. Individuals at risk of infection include sexual contacts (male and female); children born to infected mothers; recipients of blood or blood products, organs, tissues, or sperm; and users of contaminated intravenous drug paraphernalia. Those individuals determined to be at risk who are identified and who are eligible for health care in the military medical system shall be notified. Additionally, the Secretaries of the Military Departments shall provide for the notification, either through local public health authorities or by DoD health care professionals, of the spouses of Reserve component members found to be HIV–1 infected. Such notifications shall comply with the infividual's right to privacy. The Secretaries of the Military Departments shall designate all spouses (regardless of the Service affiliation of the HIV–1 infected reservists) who are notified under this provision to receive serologic testing and counseling on a voluntary basis from medical treatment facilities under the Secretaries' jurisdiction.

2. Communicable disease reporting of civil authorities shall be followed to the extent consistent with this part through liaison between the military public health autorities and the appropriate local, State, territorial, Federal, or host-nation health jurisdiction.

Appendix I to Part 58a—Retention and Separation

A. Retention

1. Service members with serologic evidence of HIV–1 infection shall be referred for a medical evaluation for documentation of fitness for continued service in the same manner as personnel with other progressive illnesses. Evaluation will be conducted in accordance with the standard clinical protocol as described in Appendix A to this part. Service members with serologic evidence of HIV–1 infection who are evaluated as fit for duty shall not be separated solely on the basis of serologic evidence of HIV–1 infection.

2. Reserve component members with serologic evidence of HIV–1 infection are ineligible for extended active duty except under conditions of mobilization. Reserve component members who are not on extended active duty or who are not on extended full time National Guard duty and how show serologic evidence of HIV–1 infection shall be transferred involuntarily to the Standby Reserve only if they cannot be utilized in the Selected Reserve.

B. Separation

1. Service members who are infected with HIV–1 and are determined to be physically unfit for further duty shall be retired or separated in accordance with the policies in DoD Directive 1332.18.

2. Service members with serological evidence of HIV–1 infection who are found not to have complied with lawfully ordered preventive medicine procedures for individual patients are subject to appropriate administrative and disciplinary action, which may include separation.

3. Separation of Service members with serologic evidence of HIV–1 infection under the plenary authority of the Secretary of the Military Department concerned, if requested by the individual, is permitted.

Dated: November 29, 1989.

L. M. Byrum

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89–28334 Filed 12–4–89; 8:45 am]

BILLING CODE 3810–01–M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–17

Assignment and Utilization of Space

AGENCY: Public Buildings Service, General Services Administration.

ACTION: Proposed rule.

SUMMARY: On November 1, 1989 (54 FR 46206), a proposed regulation was published in the **Federal Register** which revised procedures concerning the assignment and utilization of space in Federal facilities under custody and control of GSA. As noted in the November 1, 1989, publication, some concern has been raised by agencies with regard to the appropriate share of telecommunications costs between GSA (PBS) and the user agencies. The purpose of this publication is to revise those portions of the regulation relating to telecommunications and clarify the relative responsibility of GSA and the agencies. The following sections of the proposed FPMR amendment have been revised: Section 101–17.101(g), Section 101–17.102(k), and Section 101–17.205.

DATES: Comments due by: Agencies comments on this revision will be included in the review of comments on the entire document and should be submitted on or before January 4, 1990.

ADDRESSES: Comments should be submitted to the General Services Administration, Public Buildings Service (PQ), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Robert E. Ward, Director, Real Estate (202–566–1025).

SUPPLEMENTARY INFORMATION: GSA has determined that this rule is not a major rule for purpose of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. Therefore, a regulatory impact analysis has not been prepared. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chose the alternative approach involving the least net cost to society.

List of subjects in 41 CFR part 101–17: Administrative practice and procedure, Federal buildings and facilities, Government property management.

Accordingly, It is proposed to amend 41 CFR chapter 101 as follows:

PART 101–17—[AMENDED]

1. The authority citation for part 101–17 as proposed at 54 FR 46207 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390, 40 U.S.C. 486(c).

2. Section 101–17.101 as proposed at 54 FR 46207 is amended by revising paragraph (g) to read as follows:

§ 101–107.101 Policies.

* * * * *

(g) The GSA move policy is implemented to require agencies to relinquish all or a portion of assigned space if this action is in the best interest of the Government and would not unreasonably interfere with the agency's performance of its mission.

(1) GSA will fund standard alterations and agencies will reimburse GSA for the cost of above-standard requirements. See § 101–17.205.

(2) For telecommunications relocations caused by physical relocation of organizations occupying space controlled by GSA, the organizations causing the relocation will financially reimburse the organization being relocated for the value of "like telecommunications service" that must be abandoned due to the relocation. "Like telecommunications service" is defined as the replacement value, as determined by a GSA telecommunications technical services contractor, for the service available at the old location. "Like telecommunications service" does not include any upgrades to the existing telecommunications service. Telecommunication relocation cost related to physical relocations at lease expiration or due to expansion will be borne by the organization relocating or expanding. Cost of agencies displaced by an expanding agency will be borne by the expanding agency. Cost for consolidations at lease expiration will be borne by the consolidating organization. GSA will bear "like telephone service" only for GSA directed moves, GSA initiated consolidations, or emergency relocations.

* * * * *

3. Section 101–17.102 as proposed at 54 FR 46208 is amended by revising paragraphs (k) thru (jj) and by adding a new paragraph (kk) to read as follows:

§ 101–17.102 Definition of terms.

* * * * *

(k) *GSA-directed move* means any relocation action which occurs as result of an emergency, a GSA initiated repair/alteration project, or GSA initiated consolidation. GSA will be responsible for paying standard alterations, replication of the existing above-standard alterations, moving costs and the cost of providing like telecommunication service for the relocated agency.

(l) *Initial space layout* means the specific placement of workstations, furniture and equipment for new space assignments. These initial services are provided by GSA at no cost to the agencies, upon agency request.

(m) *Inventory* means a summary, survey, or itemized list of the space, assets, or materials under the control of a Federal agency.

(n) *Joint-use space* means occupiable space, such as cafeterias, conference rooms, credit unions, snack bars, and certain wellness/physical fitness facilities and child care centers, which is available for common use by personnel of any Federal agency.

(o) *Measurement of space;*

(1) *Gross square footage* means all floor area (including all openings in floor slabs) measured to the outer surfaces of exterior or enclosing walls, and includes all floors, mezzanines, halls, vestibules, stairwells, service and equipment rooms, penthouses, enclosed passages and walks, finished usable space with sloping ceilings (such as attic space) having 5 feet or more headroom, and appended covered shipping or receiving platforms at truck or railroad car height. Also included in gross floor area, but calculated on one-half of actual floor area, are covered open porches, passages and walks, with appended uncovered receiving and shipping platforms at truck or railroad care height.

(2) *Net usable space* means the area to be leased for occupancy by personnel and/or equipment. It is determined by:

(i) Computing the inside gross area of the space by measuring from the normal inside finish of exterior walls, or the room side finish of fixed corridor and shaft walls, or the center of tenant separating partitions.

(ii) Making no deductions for the columns and projections enclosing the structural elements of the building.

(iii) Deducting from the gross area the following, including enclosing walls when applicable:

(A) Toilets and lounges

(B) Stairwells

(C) Elevators and escalator shafts

(D) Building equipment and service areas

(E) Entrance and elevator lobbies

(F) Stacks and shafts

(G) Fully enclosed convectors when the housing rests on the floor, each end abuts a column or wall, and the convector occupies at least 50 percent of the length of the exterior wall.

(3) *Occupiable area* means that portion of the gross area which is available for use by an occupant's personnel or furnishings, as well as space which is available jointly to the various occupants of the buildings, such as auditoriums, health units, and snack bars. Occupiable area includes that space available for an occupant's personnel and furnishings which is used to provide circulation, whether or not defined by ceiling high partitions. Occupiable area does not include that space in the building which is devoted to its operations and maintenance, including craft shops, gear rooms, and building supply storage and issue rooms. Occupiable area is computed by measuring from the occupant's side of ceiling-high corridor partitions or partitions enclosing mechanical, toilet, and/or custodial space to the inside finish of permanent exterior building walls or to the face of the convector if the convector occupies at least 50 percent of the length of the exterior wall. When computing occupiable area separated by partitions, measurements are taken from the center line of the partitions.

(p) *Non-Federal organizations* means organizations such as credit unions, concessions operated by the blind and handicapped, and organizations under the direct sponsorship of a Federal agency such as grantees and contractors.

(q) *Office support area* means all secondary/shared workstations, extraordinary circulation space, and those specific and discrete areas constructed as office space and used to meet mission needs outside the agency's requirements for housing personnel, such as public-oriented or centralized reception, hearing or meeting facilities, service, inspection, distribution, storage or processing activities. Such space is most cost-effectively collocated with normal office space. Illustrations are contained in § 101–17.6.

(r) *Office support area allowance* is the percentage of office space, over and above the primary office area requirement, allocated for office support functions.

(s) *Personnel* means the peak number of persons to be housed during a single 8-hour shift, regardless of how many workstations are provided for them. In addition to permanent employees of the agency, personnel includes temporaries, part-time, seasonal, and contractual employees and budgeted vacancies. Employees of other agencies and organizations who are housed in the space assignment are also included in the personnel total.

(t) *Primary office area* is the personnel-occupied area in which an activity's normal operational functions are performed.

(u) *Primary office area utilization rate* is an indicator of the efficiency with which the primay office area is used. It is calculated by dividing the total occupied primary office area square footage by the total number of people in that area.

(v) *Request for space* or "space requests" means a written document upon which an agency provides GSA with the information necessary to assign space. A request for space shall be submitted on Standard Form 81 and Standard Form 81–A, and the Space Requirements Questionnaire. (See § 101–17.4901–81 and 101–17.4901–81A, Standard forms.) The request shall, at a minimum, contain descriptions of the amount of space, personnel to be housed, geographic area, time period required and funding availability.

(w) *Secondary/shared workstations* are nondedicated workstations used more than 50 percent of the time by two or more persons occupying a space assignment during an 8-hour shift. They function in support of the occupancy agency's mission and are distinct from the primary personnel-occupied workstations.

(x) *Space* means space in buildings, and land incidental to the use thereof, which is under the custody and control of a Federal agency.

(y) *Space allocation standard* means an agreement between GSA and an agency, written in terms which permit nationwide application, used as a basis for establishing that agency's space requirements. These standards identify the specific amount of space an agency will be allocated, and establish exceptions to general guidelines for GSA and agency responsibility in initial tenant funding.

(z) *Space assigned by GSA* means space in buildings, and land incidental to its use, which is under the custody and control of GSA; space made available by the U.S. Postal Service; or space for which a permit for use has been issued to GSA by another agency.

(aa) *Space assignment* means an administrative action by GSA which authorizes the occupancy and use of space by a Federal agency or other eligible entity.

(bb) *Space inspection* means a reconnaissance-type evaluation of the manner in which assignments are being utilized to determine whether a utilization survey is warranted.

(cc) *Space planning* means the process of using recognized professional techniques of space programming, planning, layout and interior design to determine the best location and the most efficient configuration for agency facilities.

(dd) *Space requirements program* means the statement of an agency's space needs as expressed on Standard Form 81–A, Space Requirements Worksheet, Space Requirements Questionnaire and additional supporting documentation such as adjacency diagrams, and summarized on Standard Form 81, Request for Space. (See § 101–17.4901–81 and 101–71.4901–81A, Standard forms.)

(ee) *Space typicals* means examples of workspace and support space allocations based on functional analysis.

(ff) *Space utilization survey* means the process of employing recognized professional techniques to determine how efficiently an agency is utilizing its workspace, and to verify that space is being used in accordance with this regulation.

(gg) *Special purpose space* means work space which is or has been constructed and predominantly utilized for the special purpose of an agency and is not generally suitable for the use of other agencies. This includes, but is not limited to, schools, hospitals, mints, embassies, and consulates.

(hh) *Standard alterations (SA's)* are those alterations necessary to prepare an agency's space to meet a particular classification, i.e., office, storage, or special, and permit occupancy of the space. (See § 101–17.207).

(ii) *Unique agency space* means any general purpose space which either consists of more than 50 percent special-type space not likely to be needed by another agency, or space of any type located in an area where it would be impractical to house another agency. (See § 101–17.302(d).)

(jj) *Work space* means federally-controlled space in buildings and structures (permanent, semipermanent, or temporary) which provides an acceptable environment for the performance of agency mission requirements by employees or by other persons occupying it. It is further classified as "office space", "storage space", or "special space". (Also, see § 101–17.601, Space classifications and standard alterations.)

(1) *Office space* means space which provides an environment suitable in its present state for an office operation.

(2) *Storage space* means space generally consisting of concrete, wood block, or unfinished floors; bare block or brick interior walls; unfinished ceilings; and similar construction containing minimal lighting and heating. It includes attics, basements, sheds, parking structures and other unfinished building areas.

(3) *Special space* means space which has unique architectural/construction features, requires the installation of special equipment or requires varying sums to construct, maintain and/or operate as compared to office and storage space.

(kk) *Workstation* means a location within an office space assignment that provides a working area for one or more persons during a single 8-hour shift. Secondary or shared workstations; are part of office support area.

4. Section 101–17.205 as proposed at 54 FR 46212 is amended by revising paragraphs (b)(3), (c), and (d) and by adding a new paragraph (e) and concluding text at the end of the section to read as follows:

§ 101–17.205 Move policy.

* * * * *

(b) * * *

(3) When an expanding agency has a justifiable need for contiguous expansion space and has to displace a neighboring agency, the expanding agency shall pay for its own moving costs and the displaced agency's moving cost and replication of the existing above-standard alterations and like telecommunications service.

(c) *Consolidation.* It is Federal Government and GSA policy to continually review the opportunities for consolidating several locations into one location. GSA shall prepare an economic analysis that demonstrates the cost of consolidation. To the maximum extent practicable, agency consolidation shall be planned to coincide with lease expiration in order to keep costs to a minimum and reduce adverse impacts on agencies. When an agency consolidation is GSA-directed, GSA will pay for standard alterations, existing above-standard alterations, moving costs and like telecommunications service.

(d) *Emergency relocation.* An emergency relocation results from an extraordinary event such as a fire, natural disaster, or immediate threat to the health and safety of occupants of the space which renders the current space unusable and requires that it be vacated. In these cases, it is necessary to act swiftly and expeditiously to react to the emergency. This may require obtaining approvals and funding authorizations from OMB and Congress. It is best to have a central coordinator for such a task and GSA is suited for this role. GSA will be responsible for paying standard alterations, existing above-standard alterations, moving costs and like telecommunications service for emergency relocations.

(e) *Repair and alteration relocations.* When an agency activity is displaced by

construction activities in their assigned space resulting from a GSA repair and alteration project, GSA will be responsible for funding standard alterations, replication of existing above-standard alterations, moving costs and like telecommunications service.

A summary of relocation situations and identification of the responsible party (GSA or agency) is as follows:

Move situations	Standard alterations	Existing above standard alterations	Moving costs	Telecommunications
I. Lease Expiration	GSA	Agency	GSA	Agency.
II. Agency Expansion:				
1. Avail Contiguous	GSA	Agency	GSA	Agency.
2. Unavail Contiguous	GSA	Agency	GSA	Agency.
3. Split Assignment	GSA	Agency	GSA	Agency.
4. Displaces an agency				
A. Expanding Agency	GSA	ExpAgc	ExpAgc	ExpAgc.
B. Displaced Agency	GSA	ExpAgc	ExpAgc	ExpAgc.
III. Consolidations:				
Agency Initiated	GSA	Agency	GSA	Agency.
GSA Initiated	GSA	GSA	GSA	GSA.
IV. Emergency	GSA	GSA	GSA	GSA.
V. Repair/Alterations	GSA	GSA	GSA	GSA.

NOTE: Agency shall be responsible for funding all above-standard alterations and telecommunications not currently provided in their existing location.

Dated: November 22, 1989.

W. Zoellner,

Commissioner, Public Buildings Service.

[FR Doc. 89-28325 Filed 12-4-89; 8:45 am]

BILLING CODE 6820-23-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket 89-24; Notice]

RIN 2127-AC77

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes three amendments of the Federal motor vehicle lighting standard to delete all references to "optical combinations" of lamps. The first would delete the prohibition against optical combinations of clearance lamps and identification lamps. The purpose of this action would be to eliminate a requirement deemed no longer necessary for safety.

The second proposed amendment would substitute clarifying phrases for the term "optically combined" and "combined" in sections S5.1.1.26, and S5.4. The third amendment would also substitute clarifying phrases in two SAE standards incorporated by reference in Standard No. 108 where the term "optically combined" appears.

This notice responds to a petition by the Truck Safety Equipment Institute (TSEI).

DATES: The comment closing date for the proposal is January 19, 1990. Effective date of the amendment would be 30 days after publication of the final rule in the **Federal Register**. Any request for an extension of time in which to comment must be received not later than 10 days before the published expiration date of the comment period.

ADDRESS: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, room 5109, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. (Docket hours are from 9 a.m. to 4 p.m.).

FOR FURTHER INFORMATION CONTACT: Kevin Cavey, Office of Rulemaking, NHTSA (202-366-5271).

SUPPLEMENTARY INFORMATION: From its very beginning, Motor Vehicle Safety Standard No. 108, in one version or another, has allowed two or more lamps, reflective devices, or items of associated equipment to be combined, if the requirements for each are met, provided that certain specified lamps were not "opticlaly combined" (*See, e.g.*, S3.3, S3.4.4.3, 23 CFR 255.21 revised as of January 1, 1968, Motor Vehicle Safety Standard No. 108). The current provisions are contained in S5.1.1.26 and S5.4.1. They are also contained in two SAE standards incorporated by reference.

Specifically, paragraph S5.4.1 permits lighting equipment to be "combined", provided that "no clearance lamp may be combined optically with any taillamp or identification lamp, and no high mounted stop lamp shall be combined with any other lamp or reflective device." Paragraph 4.2 of SAE Standard J586c *Stop Lamps*, August 1970, and paragraph 4.4 of SAE Standard J588e *Turn Signal Lamps*, September 1970, both state "When a stop signal is optically combined with the turn signal, the circuit shall be such that the stop signal cannot be turned on in the turn signal which is flashing". The second sentence of paragraph S5.1.1.26 of Standard No. 108, states that "A stop lamp that is not optically combined with a turn signal lamp shall remain activated when the turn signal is flashing." The agency has never adopted a definition of "optically combined", but has over the years attempted to clarify the term by issuing a variety of interpretations.

On June 14, 1988, the Truck Safety Equipment Institute ("TSEI") petitioned the agency for rulemaking to amend Standard No. 108 to adopt the Society of Automotive Engineers' (SAE) definition of the term "combined optically" as set forth in SAE Information Report J387 OCT88 "Terminology—Motor Vehicle Lighting." Until the revision of SAE J387 in 1988, the term had been undefined, though appearing in the two SAE standards for many years, as well as Standard No. 108. TSEI had examined the opinion letters issued by NHTSA and concluded that they were inconsistent, alleging, for example, that one had "apparently been used to justify designs which have the clearance lamp bulb mounted in close proximity to the dual filament stop/tail lamp bulb * * * Both use a common lens area for the output of the tail and clearance functions. It does not appear that this is in keeping with either the spirit or the intent of FMVSS 108." The petitioner also mentioned that Canada had adopted, effective September 2, 1987, a definition of "combined optically" which is substantially similar to that of the SAE.

In considering TSEI's petition, NHTSA examined the existing prohibitions

against lamp combinations. The agency has tentatively concluded that it is no longer necessary to forbid the "optical combination" of clearance lamps and identification lamps. The locational requirements of Standard No. 108 with respect to each are so dissimilar that they could not be met with an "optically combined" lamp. Under Table II of Standard No. 108, the three lamp cluster of identification lamps are to be mounted within a narrow space around the vertical centerline on vehicles whose overall width is 80 inches or more, while clearance lamps must be mounted to indicate the overall width of that vehicle. Further, under paragraph S5.3.1.4, when the rear identification lamps are mounted at the extreme height of the vehicle, the rear clearance lamps need not be located as close as practicable to the top of the vehicle. In the judgment of the agency, the likelihood of "optical combination" of identification and clearance lamps is infinitesimal.

The agency has also considered the prohibition against optically combining taillamps and clearance lamps. These lamps serve similar functions, namely the indication of the width and presence of the vehicle. Section S5.3.1.4 allows clearance lamps to be mounted at a location other than as close to the top of the vehicle as practicable if the identification lamps are mounted at the extreme height of the vehicle. The agency believes that the presence of both of these lamps provide a measure of desirable redundancy in marking the width and presence of a large vehicle, notwithstanding their different minimum intensity values. The agency continues to be concerned about the conspicuity of wide vehicles, and thus believes that the intent of the existing requirement should be preserved. The agency is proposing an amendment of S5.4 that would prohibit a taillamp from sharing a light source, lens, or lamp body with a clearance lamp. This, in essence, is the same prohibition but expressed in clearer language. The agency also wishes to clarify its existing prohibition against combining the center highmounted stop lamp with other lighting devices, by proposing that the center lamp not share a light source, lens, or lamp body with any other lamp or reflector.

In reviewing paragraph S5.1.1.26, containing the other direct reference to "optically combined", the agency wishes to distinguish a lamp that performs two functions (stop, turn signal) with a single filament from one that performs these two functions with more than one filament. Accordingly it is proposing a revision of that paragraph to delete the term "optically combined" and replace it with language to clarify that a light source that performs a stop function but not a turn signal function shall provide that function regardless of whether any turn signal is flashing.

Finally, with reference to the identically worded sentence in the two SAE standards, NHTSA proposes to delete the phrase "when the stop signal is optically combined with the turn signal" and replace it with "when a light source performs both stop and turn signal functions". This would be accomplished by adding language to paragraph S5.1.1.26. Removal of the term "optically combined" from Standard No. 108 will therefore cure the ambiguities that have existed, and constitute a grant of TSEI's petition.

Because the amendments would clarify existing requirements, and remove existing restrictions, it is proposed that the amendments become effective 30 days after their publication in the Federal Register. However, the agency wishes to receive comments as to whether a later effective date would be in the public interest.

Impacts

NHTSA has considered the impacts of this rulemaking action and has determined that it is neither major within the meaning of Executive Order 12291 "Federal Regulation," nor significant under Department of Transportation regulatory policies and procedures. The primary effect of adopting the proposals would be to relieve a restriction and to clarify existing requirements. In proposing these amendments, NHTSA has tentatively concluded that the savings in costs to manufacturers would be minimal, as it knows of no existing lamp designs that would be affected. Therefore, the agency has not prepared a full regulatory evaluation.

NHTSA has analyzed this proposal for purposes of the National Environmental Policy Act. It is not anticipated that a rule based on the proposal would have a significant effect upon the environment because its effect is to clarify existing requirements, and to remove restrictions.

The agency has also considered the effects of this proposal in relation to the Regulatory Flexibility Act. I certify that this proposal would not have a significant economic effect upon a substantial number of small entities. Lamp and vehicle manufacturers are generally not small businesses within the meaning of the Regulatory Flexibility Act. Furthermore, small organizations and governmental jurisdictions would not be significantly affected as the price of new vehicles should not be impacted. Accordingly, no Regulatory Flexibility Analysis has been prepared.

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

Interested persons are invited to submit comments on the proposal. Please submit 10 copies of written comments and 2 copies of films, tapes, and other materials. All comments must be limited not to exceed 15 pages in length (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15–page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the docket section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation (49 CFR part 512).

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self-

addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 571

Imports, motor vehicle safety, motor vehicles.

PART 571—[AMENDED]

In consideration of the foregoing, it is proposed that 49 CFR part 571 Motor Vehicle Safety Standard No. 108 *Lamps, Reflective Devices, and Associated Equipment* be amended as follows:

1. The authority citation for Part 571 would continue to read as follows:

Authority: 15 U.S.C. 1392, 1407; delegations of authority at 49 CFR 1.50 and 501.8.

In § 571.108 Paragraphs S5.1.1.26 and S5.4 would be revised to read:

§ 571.108 Standard No. 108; Lamps, reflective devices, and associated equipment.

* * * * *

S5.1.1.26(a) Paragraph 4.2 of SAE Standard J586c *Stop Lamps,* August 1970, and paragraph 4.4 of SAE Standard J588e *Turn Signal Lamps,* September 1970, do not apply.

(b) If a light source in a lamp performs both stop lamp and turn signal functions, it shall not begin to perform the stop lamp function when it is performing its turn signal function.

(c) If a light source in a lamp performs only a stop lamp function, it shall perform its stop lamp function regardless of whether any turn signal is flashing.

(d) Note 6 of Table 1 in SAE Standard J588e *Turn Signal Lamps,* September 1970, does not apply.

* * * * *

S5.4 *Equipment combinations.* Two or more lamps, reflective devices, or items of associated equipment may be combined if the requirements for each lamp, reflective device, and item of associated equipment are met, except that a taillamp shall not share a light source, lens, or lamp body with a clearance lamp, and a center highmounted stop lamp shall not share a light source, lens, or lamp body with any other lamp or reflective device.

* * * * *

Issued on: November 29, 1989.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 89–28331 Filed 12–04–89; 8:45 am]

BILLING CODE 4910–59–M

Notices

Federal Register
Vol. 54, No. 232
Tuesday, December 5, 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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Public Meeting of Assembly

Notice is hereby given, pursuant to the Federal Advisory Committee Act, Public Law No. 92–463, that the membership of the Administrative Conference of the United States, which makes recommendations to administrative agencies, to the President, Congress, and the Judicial Conference of the United States regarding the efficiency, adequacy, and fairness of the administrative procedures used by Federal agencies in carrying out their programs, will meet in Plenary Session on Thursday, December 14 and Friday, December 15, 1989 in the Amphitheatre of the Office of Thrift Supervision, Second Floor, 1700 G Street, NW., Washington, DC. The meeting on December 14 will begin at 1 p.m. and end at approximately 5 p.m.; the meeting on December 15 will begin at 9 a.m. and end at approximately 12:15 p.m.

The Conference will consider, not necessarily in the order stated, proposed recommendations on the following subjects:

1. Federal Regulation of Biotechnology.
2. Agency Indexing of Adjudicatory Decisions.
3. Procedures for Resolving Federal Personnel Disputes.
4. Processing and Review of Visa Denials.
5. Improved Use of Medical Personnel in Social Security Disability Determinations.
6. Agency Administration of Failed or Failing Depository Institutions.

Plenary sessions are open to the public. Further information on the meeting, including copies of proposed recommendations, may be obtained from the Office of the Chairman, 2120 L Street NW., Suite 500, Washington, DC 20037, telephone (202) 254–7020.

Dated: November 30, 1989.

Jeffrey S. Lubbers,

Research Director

[FR Doc. 89–28389 Filed 12–4–89; 8:45 am]

BILLING CODE 6110–01–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 454]

Resolution and Order Approving With Restrictions, the Application of Greater Kansas City Foreign-Trade Zone, Inc.

Proceedings of the Foreign-Trade Zones Board, Washington, DC.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Greater Kansas City Foreign-Trade Zone, Inc., grantee of FTZ 15, filed with the Foreign-Trade Zones Board (the Board) on October 21, 1989, requesting special-purpose subzone status for the small engine manufacturing plant of Kawasaki Motors Manufacturing Corporation, U.S.A. (KMM), located in Nodaway County, Missouri, adjacent the Kansas City Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations would be satisfied, and that the proposal would be in the public interest provided approval is subject to certain conditions, approves the application subject to the following conditions:

1. With regard to all foreign merchandise admitted to the subzone for the manufacture of small industrial engines, KMM shall elect privileged foreign status (19 CFR 146.41) beginning two years from the date of subzone activation.

2. Prior to the expiration of the foregoing two-year time period, the Board shall conduct a review to determine whether KMM is adhering to the domestic sourcing plan stated in the application, and whether there is no significant evidence of harmful economic effects; and, a two-year extension of the original period shall be considered if a positive determination is made on both these factors.

3. KMM shall elect privileged foreign status on any foreign merchandise subject to antidumping and countervailing duty orders upon its admission to the subzone.

The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant of Authority To Establish a Foreign-Trade Subzone at the Kawasaki Small Engine Plant in Nodaway County, Missouri, Adjacent to the Kansas City Customs Port of Entry

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes", as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Board's regulations (15 U.S.C. 400.304) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, the Greater Kansas City Foreign-Trade Zone, Inc., grantee of Foreign-Trade Zone No. 15, has made application (filed October 21, 1988, FTZ Docket 3388, 53 FR 43912) in due and proper form to the Board for authority to establish a specal-purpose subzone at the small engine manufacturing plant (small industrial engines and engines for Kawasaki motorcycles, jetskis and all-terrain vehicles) of Kawasaki Motors Manufacturing Corporation, U.S.A. (KMM), located in Nodaway County, Missouri, adjacent to the Kansas City Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations would be satisfied and that the proposal would be in the public interest provided approval is given subject to the restrictions in the resolution accompanying this action;

Now therefore, in accordance with the application filed October 21, 1989, the Board hereby authorizes the establishment of a subzone at

Kawasaki's small engine plant in Nodaway County, Missouri, designated on the records of the Board as Foreign-Trade Subzone No. 15E, at the location mentioned above and more particularly described on the maps and drawings accompanying the application, said grant of authority being subject to the provisions and restrictions of the Act and the Regulations issued thereunder, to the restrictions in the resolution accompanying this action, and also to the following expressed conditions and limitations:

Activation of the subzone shall be commenced within a reasonable time from the date of issuance of the grant, and prior thereto, any necessary permits shall be obtained from Federal, State, and municipal authorities.

Officers and employees of the United States shall have free and unrestricted access to and throughout the foreign-trade subzone in the performance of their official duties.

The grant shall not be construed to relieve responsible parties from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said subzone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and District Army Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer or his delegate at Washington, DC, this 27th day of November, 1989, pursuant to Order of the Board.

Foreign-Trade Zones Board.

Eric I. Garfinkel,

Assistant Secretary of Commerce for Import Administration Chairman, Committee of Alternates.

Attest: John J. DaPonte, Jr.,

Executive Secretary.

[FR Doc. 89-28347 Filed 12-4-89; 8:45 am]

BILLING CODE 3510-DS-M

Foreign-Trade Zones Board; Approval for Expansion of Foreign-Trade Zone 70 Detroit, MI

[Order No. 453]

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 USC 81a-81u), the Foreign-Trade Zones Board adopts the following Resolution and Order:

Whereas, the Greater Detroit Foreign-Trade Zone, Inc., Grantee of Foreign-Trade Zone No. 70, has applied to the Board for authority to expand its general-purpose zone at two sites in Detroit, Michigan, within the Detroit Customs port of entry;

Whereas, the application was accepted for filing on February 16, 1988, and notice inviting public comment was given in the **Federal Register** on February 29, 1988 (Docket 10-88, 53 FR 6020);

Whereas, an examiners committee has investigated the application in accordance with the Board's regulations and recommends approval;

Whereas, the expansion is necessary to improve and expand zone services in the Detroit area; and,

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby orders:

That the Grantee is authorized to expand its zone in accordance with the application filed February 16, 1988. The grant does not include authority for manufacturing operations, and the grantee shall notify the Board for approval prior to the commencement of any manufacturing or assembly operations. The authority given in this Order is subject to settlement locally by the District Director of Customs and the District Army Engineer regarding compliance with their respective requirements relating to foreign-trade zones.

Signed at Washington, DC, this 27th day of November, 1989.

Eric I. Garfinkel,

Assistant Secretary of Commerce for Import Administration Chairman, Committee of Alternates Foreign-Trade Zones Board.

[FR Doc. 89-28346 Filed 12-4-89; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-580-008]

Color Television Receivers From Korea; Preliminary Results of Antidumping Duty, Administrative Review

AGENCY: Import Administration/ International Trade Administration, Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to requests by the petitioners, a domestic interested party, and certain respondents, the Department of Commerce has conducted an administrative review of the antidumping duty order on color television receivers from Korea. The review covers four manufacturers and/or exporters for the period April 1, 1986 through March 31, 1987, and one manufacturer for the period April 1, 1987 through March 31, 1988. The review also covers certain entries made during the period January 9, 1986 through March 31 1986. As a result of the review, the Department has preliminarily determined the dumping margins to range between 0.04 and 6.87 percent. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: December 5, 1989.

FOR FURTHER INFORMATION CONTACT: Edmond A. O'Neill or Richard Rimlinger, Office of Antidumping Compliance, International Trade Administration, U S Department of Commerce, Washington, DC 20230; telephone: (202) 377-1130/ 5255.

SUPPLEMENTARY INFORMATION:

Background

On July 1, 1988, the Department of Commerce ("the Department") published in the **Federal Register** (53 FR 24975) the final results of its last administrative review of the antidumping duty order on color television receivers from Korea (49 FR 18336, April 30, 1984). In April 1987, the petitioners, a domestic interested party, and certain respondents requested in accordance with § 353.53a(a) of the Commerce Regulations that we conduct an administrative review. We published a notice of initiation of the review on May 20, 1987 (52 FR 18937).

Scope of Review

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).

Imports covered by the review are shipments of color television receivers, complete or incomplete, from Korea. The order covers all color television receivers regardless of tariff classification. The merchandise was classifiable under item numbers

864.9246, 684.9248, 684.9250, 684.9252, 684.9253, 684.9255, 684.9256, 684.9258, 684.9262, 684.9263, 684.9270, 684.9275, 684.9655, 684.9656, 684.9658, 684.9660, 684.9663, 684.9864, 684.9866, 687.3512, 687.3513, 687.3514, 687.3516, 687.3518, and 687.3520 of the Tariff Schedules of the United States Annotated (TSUSA). As of January 1, 1989, this merchandise is classifiable under Harmonized Tariff Schedules (HTS) items 8528.10.80, 8529.90.15, 8529.90.20, and 8540.11.00. TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written descriptions remain dispositive.

The review covers four manufacturers and/or exporters for the period April 1, 1986 through March 31, 1987, and one manufacturer for the period April 1, 1987 through March 31, 1988.

On October 20, 1986, we determined that printed circuit boards (PCBs) and color picture tubes (CPTs) imported from Korea and subsequently assembled into color television receivers are included in the scope, and we instructed the Customs Service to suspend liquidation on all such entries made on or after January 9, 1986. Because we did not include sales of PCBs and CPTs entered between January 9 and March 31, 1986 in the third administrative review, we are covering those sales in this review.

United States Price

In calculating United States price, we used purchase price or exporter's sales price (ESP), both as defined in section 772 of the Tariff Act of 1930. Purchase price and ESP were based on the packed f.o.b., c.i.f. or delivered prices to the first unrelated purchaser in the United States.

For sales of PCBs and CPTs subsequently assembled into complete color television receivers in the United States, in order to avoid application of antidumping duties to the value added in the United States, we used the U.S. price net of all costs associated with the U.S. assembly operation, including the value of all U.S. labor, materials, selling, general and administrative expenses, and allocated profit.

For those sales made directly to unrelated parties prior to importation into the United States, we based the United States price on purchase price, in accordance with section 772(b) of the Act. In those cases where sales were made through a related sales agent in the United States to an unrelated purchaser prior to the date of importation, we also used purchase price as the basis for determining United States price. For these sales, we preliminarily determine that purchase price is the most appropriate determinant of United States price because:

1. The merchandise in question was shipped directly from the manufacturers to the unrelated buyers, without being introduced into the inventory of the related selling agent;
2. Direct shipment from the manufacturers to the unrelated buyers was the customary commercial channel for sales of this merchandise between the parties involved; and
3. The related selling agent in the United States acted only as a processor of sales-related documentation and a communication link with the unrelated U.S. buyers.

Where all of the above elements are met, we regard the routine selling functions of the exporter as merely having been relocated from the country of exportation to the United States, where the sales agent performs them. Whether these functions take place in the United States or abroad does not change the substance of the transactions or the functions themselves.

For those sales to the first unrelated purchaser that took place after importation into the United States, we based United States price on ESP, in accordance with section 772(c) of the Tariff Act.

We made deductions, where applicable, for foreign inland freight, Electronics Industry Association of Korea export fees, letter of credit and postage fees, ocean freight, marine insurance, U.S. and Korean brokerage and handling charges, Korean customs clearing fees, wharfage, export license fees, U.S. forwarding and handling charges, discounts, royalties, rebates, commissions to unrelated parties, warranty, advertising and sales promotion, after-sales warehousing, and the U.S. subsidiary's selling expenses. Where applicable, we made an addition for import duties collected and rebated on imported raw materials used in merchandise exported to the United States. We accounted for taxes imposed in Korea, but rebated or not collected by reason of exportation of the merchandise to the United States, by multiplying the ex-factory price of the televisions sold in the United States by the Korean tax rates and adding the result to the U.S. price. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value, we used home market price, third country price, or constructed value, as defined in section 773 of the Tariff Act. Home market prices were used where sufficient quantities of such or similar merchandise were sold in the home market at or above the cost of production to provide a reliable basis for comparison. Home market price was based on the packed delivered price to unrelated purchasers in the home market. Where applicable, we made adjustments for inland freight, forwarding charges, rebates, commissions, discounts, warranty, advertising and sales promotion, royalties, differences in the physical characteristics of the merchandise, differences in credit expenses, and packing. We also made adjustments, where applicable, for indirect selling expenses to offset commissions and U.S. selling expenses deducted in ESP calculations, but not exceeding the amount of those U.S. expenses. Finally, we made circumstance-of-sale adjustments for commodity tax differences, where appropriate.

We disallowed a claim made by Gold Star for a level of trade adjustment because the information that the company provided did not demonstrate that the level of trade in the home market was different than that in the U.S. market. No other adjustments were claimed or allowed.

For Cosmos, we used third country sales as the basis of FMV because the company had no home market sales. The third countries were Panama, Chile, Taiwan, Canada, Mexico, Paraguay, Hong Kong, and Japan.

Petitioner alleged that Daewoo and Gold Star sold color televisions in the home market at prices below their costs of production. We considered the allegation sufficient to warrant a below-cost investigation. We found below-cost sales for both companies. However, because the below-cost sales constituted less than 10 percent of all the models we examined for both companies, we included all sales in our calculation of FMV.

We used constructed value for Gold Star, Samsung, and Quantronics where we could not match sales of such or similar merchandise between the U.S. market and the home market or third country market. We also used constructed value as the basis of FMV for U.S. sales of PCBs and CPTs subsequently assembled in the United States because there were no sales of PCBs and CPTs in the home market or third country markets. Constructed value consisted of the sum of the costs of materials, fabrication, general expenses, profit, and the cost of packing. Where the actual cost for general

expenses was below the statutory minimum of 10 percent of the cost of production and fabrication, we added the statutory minimum amount, in accordance with section 773(e) of the Act. Where the actual profit was less than the statutory minimum of eight percent of the sum of general expenses and cost, we added the statutory minimum. Where the actual amount of general expenses and profit were above the statutory minimum amounts, we added the actual amounts.

Preliminary Results of Review

As a result of our comparison of United States price with foreign market value, we preliminarily determine the dumping margins to be:

Manufacturer/exporter	Period	Margin (percent)
Cosmos Electronics Manufacturing Korea, Ltd	04/01/87 to 03/31/88	6.87
Daewoo Electronics Co., Ltd	04/01/86 to 03/31/87	2.76
Gold Star Co., Ltd	01/09/86 to 03/31/87	2.46
Quantronics Manufacturing Korea, Ltd	04/01/86 to 03/31/87	0.04
Samsung Electronics Co., Ltd	01/09/86 to 03/31/87	0.25

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or an administrative protective order within 5 days of the date of publication of this notice and may request a hearing within 10 days of publication. Any hearing, if requested, will be held as early as is convenient for the parties but not later than 44 days after the date of publication or the first workday thereafter. Pre-hearing briefs from interested parties may be submitted not later than 14 days before the date of the hearing or the first workday thereafter. Rebuttal briefs and rebuttal comments, limited to issues raised in the initial round of comments, may be filed not later than 7 days after the submission of the initial round of comments. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided for by section 751(a)(1) of this Tariff Act, a cash deposit of estimated antidumping duties based on the above margins shall be required for all firms except Samsung and Quantronics. Since the cash deposit rate for Samsung and Quantronics is less than 0.5 percent and, therefore, *de minimis* for cash deposit purposes, the Department shall not require a cash deposit of estimated antidumping duties for these firms. For any future entries of this merchandise from a new exporter not covered in this or prior administrative reviews, whose first shipments occurred after March 31, 1987 and who is unrelated to any reviewed firm, a cash deposit of 6.87 percent shall be required. These deposit requirements are effective for all shipments of Korean color television receivers entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and section 353.22 of the Commerce Regulations published in the **Federal Register** on March 28, 1989 (to be codified at 19 CFR 353.22).

Dated: November 16, 1989.

Lisa B. Barry,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 28351 Filed 12-4-89; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-703]

Certain Internal-Combustion, Industrial Forklift Trucks From Japan; Negative Preliminary Determination of Circumvention of Antidumping Duty Order

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of negative preliminary determination of circumvention of antidumping duty order.

SUMMARY: On February 27, 1989, the Department of Commerce began an inquiry into the possible circumvention of the antidumping duty order on certain internal-combustion, industrial forklift trucks from Japan. The anti-circumvention inquiry covered eight manufacturers of this product and their U.S. subsidiaries and, generally, the period June 1, 1987 through December 31, 1988.

We preliminarily determine that the manufacturers investigated are not circumventing the antidumping duty order on forklift trucks from Japan. Interested parties are invited to comment on this preliminary determination.

EFFECTIVE DATE: December 5, 1989.

FOR FURTHER INFORMATION CONTACT: David Mason, Jr. or Laurie A. Lucksinger, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5253.

SUPPLEMENTARY INFORMATION:

Background

On June 7, 1988, the Department of Commerce ("the Department") published in the **Federal Register** (53 FR 20882) the antidumping duty order on certain internal-combustion, industrial forklift trucks ("forklift trucks") from Japan. On September 23, 1988, the petitioners (the Hyster Corporation, the Independent Lift Truck Builders Union, the International Union-Allied Industrial Workers of America (AFL-CIO), the United Shop and Service Employees, and an Ad-Hoc Group of Workers from Hyster's Berea, Kentucky and Sulligent, Alabama manufacturing facilities) alleged that the antidumping duty order on forklift trucks was being circumvented and requested that the Department investigate the matter.

The petitioners alleged that imports of forklift truck components and parts had risen dramatically after publication of the antidumping duty order, that imports of completed forklift trucks had declined, and that this was a clear indication of circumvention. Upon examination of the data submitted by petitioner and a review of import statistics, we determined that a substantial increase in imports of components occurred after the issuance

of the antidumping duty order. Moreover, we determined that imports of completed forklift trucks subject to the order had declined.

On February 27, 1989, we presented anti-circumvention requests for information to the eight known forklift truck manufacturers: Toyota Motor Corporation and Toyota Motor Sales, U.S.A., Inc. ("Toyota"); Toyo Umpanki; Nissan Motor Corporation Company, Ltd., Nissan Industrial Equipment Company and Barrett Industrial Trucks, Inc. ("Nissan"); Mitsubishi Heavy Industries and Mitsubishi Forklift America ("Mitsubishi"); Komatsu Forklift Company, Ltd. and Komatsu Forklift Manufacturing Company of U.S.A. ("Komatsu"); Yale Materials Handling Corporation and Sumitomo-Yale Company, Ltd. ("Sumitomo-Yale"); Kasagi Forklift Inc.; and Sanki Industrial Company.

Toyota, Toyo Umpanki, Kasagi Forklift Inc., and Sanki Industrial Company, Ltd. reported that they did not have U.S. manufacturing or assembly facilities during the period covered by the requests for information.

On April 21, 1989, we received responses to our anti-circumvention requests for information from Nissan, Mitsubishi, Komatsu, and Sumitomo-Yale. Subsequently, we requested and received supplementary information from each of these respondents.

Scope of the Antidumping Duty Order

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).

Products covered by the antidumping duty order are certain internal-combustion, industrial forklift trucks, with lifting capacity of 2,000 to 15,000 pounds. During the anti-circumvention period of inquiry, such merchandise was classified under Tariff Schedules of the United States Annotated ("TSUSA") items 692.4025, 692.4030, and 692.4070, and is currently classifiable under HTS item numbers 8427.20.00 and 8427.90.00. The products covered by the order are further described as follows: assembled, not assembled, and less than complete, finished and not finished, operator-riding forklift trucks powered by gasoline, propane, or diesel fuel internal-combustion engines of off-the-highway types used in factories, warehouses, or transportation terminals for short-distance transport, towing, or handling of articles. Less than complete forklift trucks are defined as imports which include a frame by itself or a frame assembled with one or more component parts. Components parts of the subject forklift trucks which are not assembled with a frame are not covered by this order.

Products not covered by the order are genuine used forklifts. Forklift trucks are considered used if, at the time of entry into the United States, the importer can demonstrate to the satisfaction of the U.S. Customs Service that the forklift was manufactured in a calendar year at least three years prior to the year of entry into the United States.

Scope of the Anti-circumvention Inquiry

Products subject to the anti-circumvention inquiry are forklift truck components and parts used in the production of certain internal-combustion, industrial forklift trucks as defined above. Our calculations of value are based on data for the period June 1, 1987 through December 31, 1988. However, our examination of qualitative factors includes relevant events outside this period.

Nature of the Circumvention Inquiry

Section 781(a)(1) of the Tariff Act of 1930, as amended, ("the Tariff Act") provides that if:

(1) Merchandise of the same class or kind as that covered by an existing antidumping or countervailing duty order is being sold in the United States;

(2) Such merchandise sold in the United States is completed or assembled in the United States from parts or components which were produced in the country with respect to which the order or finding applies; and

(3) The difference between the value of the completed merchandise sold in the United States and the value of the imported parts or components from the country with respect to which the antidumping order or finding applies is small, the Department, after taking into consideration any advice which the U.S. International Trade Commission provides, may included those parts or components within the scope of that antidumping duty order.

In reaching a determination on whether to include parts or components within an order, section 781(a)(2) of the Tariff Act directs the Department to consider such factors as (1) the pattern of trade, (2) whether the manufacturer or exporter is related to the entity that assembled or completed the merchandise sold in the United States, and (3) whether imports of the parts of components from the country with respect to which the antidumping duty order or finding applies have increased after issuance of that order or finding.

While we have considered each of the three factors stipulated in the statute, we have not limited our analysis to those factors. Our review of the legislative history of this provision indicates that other factors may properly be considered before rendering an anti-circumvention determination. The report of the Committee on Finance, U.S. Senate states:

> (T)he Committee has not attempted to develop a precise meaning for the term "small" as used in these sections, principally in recognition that different cases present different factual situations * * *. While these subsections grant the Commerce Department substantial discretion in interpreting these measures so as to allow it the flexibility to apply the provisions in an appropriate manner, the Committee expects the Commerce Department to use this authority to combat diversion and circumvention of the antidumping and countervailing duty laws. S. Rep. No. 71, 100th Cong., 1st Sess. 100 (1987)

The legislative history suggests that Congress intended the Department to make anti-circumvention determinations on a case-by-case basis. Our review of the legislative history also suggests that Congress intended that we examine the extent of the U.S. production process. (See for example, H.R. Rep. No. 40 at 134–35 in which the Committee cites the shipment of picture tubes and printed circuit boards for assembly into a completed television receiver or the importation of steel pipe which is subsequently threaded as examples of circumvention of existing antidumping orders. See also S. Rep. No. 71 at 101, in which the then current law is described as permitting firms subject to an order to evade the effect of the order by ". . . making slight changes in their method of production or shipment." Finally see H.R. Conf. Rep. No. 576, 100th Cong., 2d Sess. (1988), reprinted in 134 Cong. rec H2031 (daily ed., April 20, 1988) at H2035, which notes that "(T)he anti-circumvention provision is intended to cover efforts to circumvent an order by importing disassembled or unfinished merchandise for assembly in the United States.") Therefore, we have considered the nature of the processing performed in the United States, the level of respondents' U.S. investment at the U.S. facility, and the extend of respondents' U.S. production facilities.

Preliminary Calculation of Difference in Value

We calculated the difference in value between the forklift trucks completed and sold in the United States and the value of the components used in the production of that merchandise which were produced in Japan. We determined that the differences in value ranged from 25% to 40%. (Since the precise figures are business proprietary, each of the stated percentages is approximated within a range of plus or minus 10%.)

Value of Completed Merchandise

We used the weighted-average, monthly, ex-factory selling price of the completed forklift trucks on a model-specific basis to represent that value of the forklift trucks. Where applicable, we deducted U.S. inland freight to derive the ex-factory price of the completed forklift truck.

Value of Japanese Components

We used the price from the respondents' related suppliers to represent the value of Japanese components. We used these prices because, on average, the prices from related suppliers exceeded the suppliers' cost of manufacture for each of the respondents. We included in our calculation of Japanese value all movement expenses that the respondents incurred on Japanese component purchases which were not included in the selling price for the Japanese components. Finally, we allocated general, selling, and administrative expenses ("GS&A") and profit of the U.S. facilities to the value of Japanese components using the ratio of the value of Japanese components to the sum of the value of Japanese components, third-country components, U.S. components, and U.S. assembly.

Value of Third-Country Components

We used the price from the respondents' unrelated third-country suppliers to represent the value of third-country components. We included in our calculation of third-country value all movement expenses that the respondents incurred on third-country component purchases which were not included in the selling price for third-country components. Finally, we allocated GS&A expenses and profit of the U.S. facilities to the value of third-country components using the ratio of the value of third-country components to the sum of the value of Japanese components, third-country components, U.S. components, and U.S. assembly.

Value of U.S. Components and U.S. Assembly

We used the price from respondents' unrelated U.S. suppliers to represent the value of U.S. components. We included in our calculation of U.S. value all movement expenses that the respondents incurred on U.S. component purchases which were not included in the selling price for U.S. components. U.S. assembly expenses included fabrication and overhead expenses incurred by the respondents in their U.S. assembly operations. In addition, the cost of U.S. labor for subassembly of Japanese parts and components was included in the U.S. value. Finally, we allocated GS&A and profit of the U.S. facilities to the value of U.S. components and U.S. assembly using the ratio of the value of U.S. components and U.S. assembly to the sum of the value of Japanese components, third-country components, U.S. components, and U.S. assembly.

Factors

As directed by section 781(a)(2) of the Tariff Act, in making our determination we considered the pattern of trade, whether the manufacturer or exporter is related to the entity that sold the completed forklift truck, and whether imports of forklift truck parts or components from Japan had increased and imports of forklift trucks has decreased, after issuance of the antidumping duty order.

The pattern of trade for the marketing of Japanese forklift trucks was the same as that for forklift trucks produced and assembled in the United States by the investigated firms. For instance, the distribution system for trucks completed from forklift truck components was the same as the distribution system for forklift trucks imported from Japan. Components are sourced globally in the forklift truck industry. Each of the respondents purchased components from Japanese, third-country, and U.S. sources, and then transformed these components into a finished forklift truck. (The valuation of these components was discussed in the "Preliminary Calculation of Difference in Value" section of this notice.)

Each manufacturer or exporter of forklift truck components was related to the entity that sold assembled or completed forklift trucks, and shipments of forklift truck components had increased and imports of forklift trucks had decreased since issuance of the antidumping duty order.

These facts alone do not establish the extent of the assembly or completion operations in the United States. Thus, in determining the nature of the respondents' forklift truck operations in the United States, we examined additional factors such as the level of investment, and the degree of sophistication of respondents' U.S. production processes.

Our analysis of respondents' U.S. production operations has primarily focused upon the total amount of "value" that these facilities added in manufacturing forklift trucks.

Each of the four respondents made considerable component purchases from U.S. and other country suppliers and added value through the fabrication and assembly process. These purchases represent more than the purchase of mere raw material, but also include the procurement of assembly, product design, and labor. For example, the purchase of cut-to-shape steel plate from a U.S. supplier represents more than the purchase of raw steel, it also represents the purchase of the fabrication of that steel into a component designed to function in a completed forklift truck.

Our analysis of respondents' forklift truck manufacturing processes indicates that each of the respondents is performing substantial production operations in the United States. We based our analysis on a comparison of the U.S. manufacturing process as set forth in the ITC's Final Determination (USITC Publication 2082, May, 1988) and the respondents' description of their production processes. According to the ITC account, there are three distinct processes in the manufacturing of a completed forklift truck: (1) Fabrication of the frame, (2) fabrication of the mast, and (3) final assembly of the forklift truck.

We find that none of the respondents assembled forklift trucks wholly from a pre-assembled package of components or a series of "kits" manufactured in Japan. Moreover, none of respondents' operations constitute a simple assembly operation. All four respondents' U.S. facilities included comprehensive assembly operations. For example, each respondent attached the engine and transmission to the frame, fitted the drive and steering axles, and added the hydraulic system, the engine and steering controls. In addition, the respondents frequently added the upright, the counterweight, and any additional custom attachments. Thus, each respondent performed substantially all of the assembly functions outlined in the ITC determination.

In addition to these assembly operations, we observed that respondents performed a number of

other production operations. For example, one respondent established several assembly stations for the subassembly of three major components and several minor components. Other respondents also subassembled several components.

Moreover, each respondent has begun important manufacturing functions in the United States. For example, one respondent fabricates four major components. That fabrication process involves burning, shearing, bending, sawing, drilling and welding of parts in order to construct these major components. Three respondents engaged in some U.S. frame production, and two respondents performed either some or all of their mast fabrication production in the United States. Such additional processes are not part of simple main assembly-line functions, and do not constitute a simple "snap-together" operation.

Additionally, the extent of respondents' U.S. production operations has generally expanded since respondents established their U.S. facilities. For example, one respondent began mast fabrication, while another commenced both mast and frame fabrication. One respondent, using robotic production techniques, now produces complete frames in the United States. Thus, respondents' operations have gone beyond the simple assembly operation contemplated by the statute. Respondents have clearly made more than a "slight change in their method of production or shipment" since, during the fair value investigation, essentially complete forklift trucks were imported.

We further note that all respondents made substantial investments in plant and equipment which is indicative of the magnitude of their U.S. operations. These investments represents a significant part of a *bona fide* effort to establish major production operations outside of Japan. We also note that each of the respondents has a production workforce that is comparable in size to a U.S. domestic forklift truck manufacturer. Moreover, the size of the U.S. workforce for each respondent in conjunction with their substantial U.S. investments is an additional indication of significant production activity.

In sum, we find that the level of production operations is too great to characterize these operations as completion or assembly operations established for the purpose of evading the antidumping duty order. Rather, respondents' current U.S. operations, their investment in these facilities, and the expanding nature of their operations represent the substantial establishment of major U.S. production operations.

Negative Preliminary Determination of Circumvention Inquiry

We preliminarily determine that no circumvention of the antidumping duty order is occurring within the meaning of section 781(a) of the Tariff Act, and that the difference between the value of forklifts sold in the United States and the value of Japanese components is not small for this industry. Observers should not construe the determination of "small" in this case to be necessarily synonymous with the determination of "small" that the Department will formulate in future anti-circumvention inquiries since Congress has directed us to make such determinations on a case-by-case basis.

Interested parties may request disclosure within 5 days of the date of publication of this notice and may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication, or the first workday thereafter. Case briefs and/or written comments from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in those comments, may be filed not later than 37 days after the date of publication. The Department will publish the final determination of the anti-circumvention inquiry, including the results of its analysis of any written or oral comments. If, consistent with section 781(e) of the Tariff Act, we refer this matter to the ITC, we will issue our final determination within 15 days of receiving advice from the ITC. If referral to the ITC is not necessary, we will issue our final determination within 60 days of publication of this negative preliminary determination.

This negative determination of circumvention is in accordance with section 781(a) of the Tariff Act (19 U.S.C. Section 1677j).

Dated: November 28, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89-28349 Filed 12-4-89; 8:45 am]

BILLING CODE 3510-DS-M

[C-122-910]

Initiation of Countervailing Duty Investigation; Plastic Tubing Corrugators From Canada

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 a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Canada of plastic tubing corrugators (PTCs), as described in the "Scope of Investigation" section of this notice, receive benefits which constitute subsidies within the meaning of the countervailing duty law. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether imports of PTCs from Canada materially injure, or threaten material injury to, a U.S. industry. If this investigation proceeds normally, we will make our preliminary determination on or before January 31, 1990.

EFFECTIVE DATE: December 5, 1989.

FOR FURTHER INFORMATION CONTACT: Vincent Kane or Roy A. Malmrose, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-2815 and (202) 377-5414.

SUPPLEMENTARY INFORMATION:

The Petition

On November 7, 1989, we received a petition in proper form from Cullom Machine Tool & Die, Inc. of Cleveland, Tennessee. This petition is filed on behalf of the U.S. industry producing PTCs. In compliance with the filing requirements of section 355.12 of the Commerce Department's regulations, published in the Federal Register on December 27, 1988 (53 FR 52306) (to be codified at 19 CFR 355.12), the petition alleges that producers and exporters of PTCs in Canada receive subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act).

Since Canada is a "country under the Agreement" within the meaning of section 701(b) of the Act, Title VII of the Act applies to this investigation, and the ITC is required to determine whether imports of the subject merchandise from Canada 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)(C) of the Act and that 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), or (F) of section

771(9) of the Act wishes to register support of or opposition to this petition, please file written notification with the Commerce officials cited in the "For Further Information Contact" section of this notice.

Initiation of Investigation

Under section 702(c) of the Act, we must make the determination on whether to initiate a countervailing duty proceeding within 20 days after a petition is filed. Section 702(b) of the Act requires the Department to initiate a countervailing duty proceeding whenever an interested party files a petition, on behalf of an industry, that (1) alleges the elements necessary for the imposition of a duty under section 701(a) and (2) is accompanied by information reasonably available to the petitioner supporting the allegations. We have examined the petition on PTCs from Canada and have found that most of the programs alleged in the petition meet these requirements. Therefore, we are initiating a countervailing duty investigation to determine whether Canadian manufacturers, producers, or exporters of PTCs, as described in the "Scope of Investigation" section of this notice, receive subsidies. However, we are not initiating an investigation for certain programs because the petition filed to allege the elements necessary for the imposition of a duty or in some instances failed to provide the necessary supporting information. If our investigation proceeds normally, we will make our preliminary determination on or before January 31, 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 item number(s). The HTS item numbers are provided for convenience and U.S. Customs Service purposes. The written description remains dispositive.

The product covered by this investigation is plastic tubing corrugators (PTCs) which is defined as all machines and apparatus therefor (including mold sets, dies, and perforators, but excluding separately imported and/or free-standing extrusion machines) designed to manufacture continuous lengths of corrugated plastic tubing whether such machines and apparatus are imported as part of the systems or separately. These goods are described for tariff classification purposes as blow molding machines and vacuum molding machines and other thermoforming machines, all the foregoing used for working rubber or plastics or for the manufacture of products from these materials. PTCs are currently provided for under the following HTS subheadings: 8477.30.00.00 and 8477.40.00.00.

Allegations of Subsidies

Petitioner lists a number of practices by the Government of Canada and the provincial government of Ontario which allegedly confer subsidies on manufacturers, producers, or exporters of PTCs. We are initiating an investigation of the following programs:

A. Federal Programs

1. Export Credit Financing
2. Certain Investment Tax Credits
3. Regional Development Incentive Program and Industrial and Regional Development Program
4. Loans under the Enterprise Development Program
5. Program for Export Market Development
6. Community-Based Industrial Adjustment Program Grants

B. Joint Federal/Provincial Programs

1. General Development Agreements
2. Economic and Regional Development Agreements

C. Provincial Programs

1. Ontario Development Corporation Export Support Loans, Other Loans and Loan Guarantees
2. Provision of Electricity by Ontario Hydro to Corma

As noted above, section 702(b) of the Act requires the Department to initiate a countervailing duty proceeding whenever an interested party files a petition, on behalf of an industry, that (1) alleges the elements necessary for the imposition of a duty under section 701(a) and (2) is accompanied by information reasonably available to the petitioner supporting the allegations. We are not initiating an investigation of the programs listed below because the supporting documentation required by section 702(b) was not provided in the petition.

1. Federal Expansion and Development/ Northern Ontario (FEDNOR)

Petitioner alleges that a countervailable benefit is conferred on Canadian manufacturers, producers, and exporters of PTCs in the form of loan insurance and grants covering up to 35 percent of eligible capital costs over a five-year period. Since petitioner has provided no evidence that Corma is eligible to receive benefits contingent upon location in northern Ontario, we are not initiating an investigation on this program.

2. Equity Infusions, Grants, Loans, and Loan Guarantees

Petitioner alleges that the federal government of Canada and the provincial government of Ontario have provided capital to Corma, Inc., on terms inconsistent with commercial considerations and that Corma, Inc., is unequityworthy. Petitioner has also alleged the government provision of grants, loans, and loan guarantees in addition to those specified above. Petitioner, however, has provided no evidence or documentation in support of these allegations. Since we deem such evidence necessary to initiate on the above allegations, we are not initiating an investigation on these allegations.

Allegation of Critical Circumstances

Petitioner alleges that critical circumstances exist with respect to imports of PTCs from Canada. Petitioner claims that the products concerned benefit from export subsidies that are inconsistent with the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade, and that imports have been massive over a relatively short period of time. We will determine whether critical circumstances exist with respect to these imports in our preliminary and final determinations.

Notification of ITC

In accordance with section 702(d) of the Act, we will notify the ITC and make available to it all non-privileged and non-proprietary information in our files, provided it confirms 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.

Preliminary Determination by ITC

The ITC will determine by December 23, 1989, whether there is a reasonable indication that imports of PTCs materially injure, or threaten material injury to, a U.S. industry. If its determination is negative, this investigation will terminate; otherwise, this investigation will continue according to the statutory procedures.

This notice is published pursuant to section 702(c)(2) of the Act.

Dated: November 27, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89-28348 Filed 12-4-89; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Coastal Zone Management; Federal Consistency Appeal by Oak Beach Inn Corp. From Objection by New York Department of State

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of dismissal.

On June 2, 1989, Oak Beach Inn Corporation (Appellant) filed with the Department of Commerce (Department) a notice of appeal under Section 307(c)(3)(A) of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1456(c)(3(A), and implementing regulations, 15 CFR part 930, subpart H. The appeal arose from an objection by the New York Department of State (State) to the Appellant's consistency certification for an intake pipe for a fire sprinkler system, construction of bulkhead with fill, the maintenance of an existing deck, and the enclosure of a second deck. On August 25, 1989, the Department granted appellant a 30-day extension to file its brief in support of its consistency appeal. That brief was due on October 10, 1989. Appellant has failed to file a brief. Accordingly, the Department dismissed the appeal on October 31, 1989 for good cause pursuant to 15 CFR 930.128 (1988). That dismissal bars the Appellant from filing another appeal from the State's original objection to the aforementioned activities.

FOR ADDITIONAL INFORMATION CONTACT: Kirsten Erickson, Attorney-Adviser, Office of the Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1825 Connecticut Avenue, NW., Suite 603, Washington, DC 20235, (202) 673-5200.

[Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance]

Dated: November 28, 1989.

John A. Knauss,

Under Secretary for Oceans and Atmosphere.

[FR Doc. 89-28367 Filed 11-30-89; 8:45 am]

BILLING CODE 3512-08-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Republic of Hungary

November 29, 1989.

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

ACTION: Issuing a directive to the Commissioner of Customs establishing limits for the new agreement year.

EFFECTIVE DATE: January 1, 1990.

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. 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).

In addition to setting forth limits for the 1990 agreement year, the limits for Categories 434, 435 and 448 are being reduced for carryforward used in 1989.

A copy of the current bilateral textile agreement between the Governments of the United States and the Hungarian People's Republic is available from the Textiles Division, Bureau of Economic and Business Affairs, U.S. Department of State, (202) 647-1998.

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

Auggie D. Tantillo,

Chairman, Committee for the Impelmentation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 29, 1989.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854) and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further amended on July 31, 1986; pursuant to the Bilateral Wool Textile Agreement of February 15 and 25, 1983, as amended, between the Governments of the United States and the Republic of Hungary; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1990, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Hungary and exported during the twelve-month period beginning on January 1, 1990 and extending through December 31, 1990, in excess of the following restraint limits:

Category	12-Mon. restraint limit
300/301	1,274,141 kilograms.
313	12,448,014 square meters.
410	852,934 square meters.
433	8,186 dozen.
434	7,196 dozen.
435	12,749 dozen.
442	18,362 dozen.
443	86,288 numbers.
444	25,449 numbers.
445/446	42,040 dozen of which not more than 31,530 dozen shall be in Category 445 and not more than 31,530 dozen shall be in Category 446.
448	19,127 dozen.
604	764,485 kilograms.
645/646	101,236 dozen.
669-P [1]	625,050 kilograms.

[1] In Category 669-P, only HTS numbers 6305.31.0010, 6305.31.0020 and 6305.39.000.

Imports charged to these category limits for the period January 1, 1989 through December 31, 1989 shall be charged against the levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The levels set forth above are subject to adjustment in the future pursuant to the provisions of the current bilateral agreement between the Governments of the United States and the Republic of Hungary.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

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

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89-28350 Filed 12-4-89; 8:45 am]

BILLING CODE 3510-DR-M

COMMODITY FUTURES TRADING COMMISSION

Chicago Mercantile Exchange Proposed Rule 549 and Conforming Rule Amendments Establishing a Large Order Execution Procedure

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed new contract market rule.

SUMMARY: The Commodity Futures Trading Commission ("Commission") has determined, pursuant to section 5a(12) of the Commodity Exchange Act ("Act"), to review the Chicago Mercantile Exchange's ("CME" or "Exchange") proposed Rule 549 and conforming rule amendments for approval. CME's proposed rule would establish a Large Order Execution ("LOX") procedure. Under the proposed rule, a member who received an order or orders for 300 or more Standard & Poor's 500 ("S&P 500") Stock Index futures contracts would be able to solicit interest off the Exchange floor in the opposite side of the trade prior to its execution in the pit. Through this solicitation, the member could establish an intended execution price and maximum quantity of the trade. Such action would require the written consent of the customer.

Once the member had solicited interest in the opposite side of a LOX, the Exchange would require a broker to execute the trade in the pit. During execution of the order, the broker would announce one side of the LOX to the floor and would fill all orders in the pit at the intended execution price or better. The broker then would cross the balance of that side with the unexposed side without any further bid or offer. The Commission has determined that publication of the proposal is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Act.

DATE: Comments must be received by January 4, 1990.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Telephone: (202) 254-6314.

FOR FURTHER INFORMATION CONTACT: Shauna L. Turnbull, Staff Attorney, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Telephone: (202) 254-8955.

SUPPLEMENTARY INFORMATION:

I. Description of Proposal

A. Background

By letter dated September 27, 1989, the CME submitted proposed Rule 549 and conforming rule amendments under Commission Regulation 1.41(c). The Commission determined to review the proposal for approval and informed the CME of its decision in a letter dated October 10, 1989.

In support of the proposal, the CME represented that the procedure would facilitate the execution of large trades and may lessen volatility. Specifically, the CME stated that this proposal could result in liquidity at a lower cost for customers with large orders and could bring in additional trading interest that may lessen price moves caused by such orders. The proposed rule is intended to establish a procedure that is comparable to the block facilitation rules followed at securities exchanges.

The CME represented that the establishment of a LOX procedure would benefit customers with large orders who do not want to reveal information about their orders prior to execution. Thus, the proposed procedure differs from sunshine trading, which is intended to benefit customers who are willing to reveal information about their orders prior to execution. Should the Commission approve the proposed rule, the Exchange would implement the LOX procedure as a six-month pilot program.

B. Proposed Large Order Execution Procedure

The proposed Exchange rule and conforming rule amendments would establish a procedure for the execution of an order or orders for 300 or more S&P 500 futures contracts. A member who received such an order would be allowed to solicit interest off the Exchange floor in the opposite side prior to its execution on the floor of the Exchange. The member also could solicit interest in the opposite side or orders for more than one customer that are aggregated for execution purposes (*i.e.*, bunched orders), provided that each order that was to be aggregated was for 300 or more contracts. The member could execute a LOX transaction only with the customer's prior written consent. This consent could be for a particular transaction or be a blanket consent that covered a six-month period.

During pre-trade negotiations, the member would arrange the "intended execution price" and maximum quantity of the LOX. There would be no restrictions on whom the member solicited for the opposite side, how the member should solicit such a person, or how many people the member would solicit. CME did note that a member could not solicit interest in a LOX unless he first received a customer's order. In addition, a solicited party could not approach others to determine their interest in the transaction. After negotiating the opposite side of the LOX, the member would give orders for both sides of the trade to one broker for execution on the floor.

A broker with LOX orders would be required to inform a designated Exchange official of his intention to execute such a trade. The Exchange has stated that this designated official would be a supervisor, manager, or market coordinator who would be located in the pulpit, which is a raised area in the S&P 500 pit. This Exchange official would make a duplicate of the orders and would have the broker's clerk initial the copies to verify their accuracy. In addition, the designated official would ensure that an announcement regarding the LOX was displayed on the Translux board, which is an electronic wall board that is visible to the S&P pit and surrounding order desks. Information displayed on the Translux board would include an announcement of the imminent LOX, an indication of whether it was a buy or sell transaction, the trader's acronym, the quantity, and the delivery month symbol. The Exchange official also would sound an instrument, which may be a whistle, to alert the pit that a LOX was about to be executed. The CME would not disseminate information about the LOX outside of the Exchange floor, although persons on the floor could inform others of the imminent LOX. There would not be a waiting period between the Exchange's announcement of the LOX procedure and its implementation.

In implementing the procedure, a broker would announce to the pit that he was executing a LOX to buy or sell and would state the quantity of the trade. He would not announce the intended execution price at that time. If the intended execution price was at or below the existing bid, the broker would announce the full quantity of the order to sell. Alternatively, if the intended execution price was at or above the existing offer, the broker would

announce the full quantity of the order to buy. In cases where the intended execution price was between the existing bid and offer and both sides of the proposed LOX consisted exclusively of customers' orders, the broker either would bid the full quantity of the order to buy or offer the full quantity of the order to sell at his discretion. If, however, the intended execution price were between the existing bid and offer and only one side of the proposed LOX was composed entirely of customers' orders, then the broker would bid or offer the customers' side of the trade to the pit.

Following the initial announcement of a LOX to the pit, the broker would hit existing bids or accept offers until he reached the intended execution price. At that point, the broker would fill all bids or offers at that price. He then would announce his intention to "cross" the balance at that price and would effect the "cross" without any further announcement by matching the two sides of the LOX.

For example, if the current bid was 334.75 and current offer was 334.80 and the broker held a LOX order for 300 S&P 500 contracts with an intended execution price of 334.95, then the broker would announce to the pit the full quantity to buy. The broker then would accept offers and bid the remaining quantity of the order until he had reached the intended execution price. Assuming that the broker bought 200 S&P 500 contracts from the pit at prices that were better than or equal to the intended execution price, the broker then would cross the remaining 100 contracts at the intended execution price with a like quantity of the side that had not been exposed to the market.

According to the proposed rule, all such trades would be crossed in the presence of the designated Exchange official. The CME would require the broker who crossed the trade to identify the transaction clearly on his trading card and, immediately upon completion, to present the card to the Exchange official for verification, initialing, and time-stamping. The Exchange official then would enter information about the transaction on the Exchange's current cross trade form, which would show the commodity, date, price, quantity, delivery month, and broker.

The Exchange stated that it would assign a code to each trade involved in a LOX procedure which would appear in its trade register. This code would facilitate record surveillance of the trades by allowing their isolation. Record surveillance would include all normal trade practice review programs, including the Exchange's computerized Market Analysis, Trading Ahead of Customer's Orders, Direct/Indirect Trading Against, and Direct Trading Against with Collaborator reports. The CME also would monitor LOX transactions for frontrunning violations. The Exchange is in the process of reviewing its frontrunning interpretation to ensure that it addresses all relevant violations. With regard to floor surveillance, the Exchange would rely on the designated Exchange official to monitor LOX transactions on the floor.

II. Request for Comments

The Commission requests comments on any aspect of proposed CME Rule 549 and the conforming rule amendments that members of the public believe may raise issues under the Act or Commission regulations. In particular, the Commission invites comment on the following specific matters:

1. The need for a mechanism to increase market liquidity for large orders and facilitate the execution of large futures orders;
2. The ability of the LOX procedure to increase market liquidity for large orders and facilitate large order execution;
3. The consistency of the proposal with the price discovery function of the market;
4. The consistency of the proposal with sections 15, 4b(D), and 4c(a) of the Act and Commission Regulations 1.38 and 1.39;
5. The extent to which the LOX procedure presents any unique opportunities to manipulate prices;
6. The need to address the possibility that brokers solicited to take the other side of LOX orders may attempt to enter proprietary trades based on their knowledge of the impending LOX trade;
7. The adequacy of the provisions for notice to and consent from customers whose orders are executed through the LOX procedure;
8. The adequacy of special surveillance procedures contained in the proposal, including their ability to ensure that the LOX procedure does not facilitate violations of the Act and Commission regulations; and
9. The viability of any alternative means to achieve the purposes of the proposal.

Copies of the CME's submission are available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Copies also may be obtained through the Office of the Secretariat at the above address or by telephoning (202) 254-6314.

Any person interested in submitting written data, views, or arguments on the proposed regulation should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, by the specified date.

Issued in Washington, DC, on November 29, 1989.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 89-28355 Filed 12-4-89; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Renewal of the Board of Visitors, Defense Intelligence College

ACTION: Renewal of the board of visitors, Defense Intelligence College.

SUMMARY: Under the provisions of Public Law 92-463, "Federal Advisory Committee Act," notice is hereby given that the Board of Visitors, Defense Intelligence College has been determined to be in the public interest and has been reviewed.

The Board of Visitors, Defense Intelligence College provides advice and recommendations to the Director, Defense Intelligence Agency and the Commandant, Defense Intelligence College on the full range of College activities, to include: the mission, policies, faculty, students, curricula, educational methods, research and administration. In its oversight role, the Board of Visitors is analogous to a board of trustees and is a mandatory requirement for continued accreditation.

Dated: November 29, 1989.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89-28336 Filed 12-4-89; 8:45 am]

BILLING CODE 3810-01-M

Establishment of the Executive Level Group for Defense Corporate Information Management

ACTION: Establishment of the executive level group for defense corporate information management.

SUMMARY: Under the provisions of Public Law 92-463, "Federal Advisory Committee Act," notice is hereby given that the Executive Level Group for Defense Corporate Information Management has been determined to be necessary and in the public interest, and is being established.

The Executive Level Group for Defense Corporate Information Management will provide advice

regarding: recommending an overall approach and action plan to enhance the availability and standardization of information in common functional areas through a Corporate Information Management Program for the Department of Defense; reviewing the procedures and products of functional groups, such as, inventory control, warehousing, civilian payroll, etc.), including information requirements and data formats; reviewing the processes and procedures used for overseeing the development of new information systems and software: and, recommending corrective actions, as deemed necessary.

The Executive Level Group will be composed of a well-balanced membership from both industry and government, with recognized experts in strategic information management and related areas of concern to the Department of Defense.

Dated: November 29, 1989.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89-28335 Filed 12-4-89; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

Acceptance of Group Application; U.S. Civilian Flight Crew and Aviation Ground Support Employees of American Airlines Who Served Overseas as a Result of American Airlines' Contract With the Air Transport Command During the Period December 14, 1941 Through January 4, 1946.

Under the provisions of section 401, Public Law 95-202 and DOD Directive 1000.20, the Department of Defense Civilian/Military Service Review Board has accepted an application on behalf of the group known as: "U.S. Civilian Flight Crew and Aviation Ground Support Employees Who Served Overseas as a Result of American Airlines' Contract with the Air Transport Command during the Period December 14, 1941, through January 4, 1946." Persons with information or documentation pertinent to the determination of whether the service of this group is to be considered equivalent to active military service to the Armed Forces of the United States are encouraged to submit such information or documentation within 60 days to the DOD Civilian/Military Service Review Board, Secretary of the Air Force (SAF/MRC), Washington, D.C. 20330-1000. Copies of documents or other materials submitted cannot be returned. For futher information, contact Lt Col Harris, (202) 692-4747.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 89-28366 Filed 12-4-89; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Privacy Act of 1974, Amend Systems of Records Notice

AGENCY: Department of the Army, DOD.

ACTION: Amend three systems of records notices for public comment.

SUMMARY: The Department of the Army proposes to amend three systems of records to its inventory of systems of records subject to the Privacy Act of 1974, as amended (5 U.S.C. 552a). The systems notices for the amended systems are set forth below.

DATES: These amendments will be effective January 4, 1990, unless comments are received which would result in a contrary determination.

ADDRESS: Send comments to Mr. Robert Priest, Chief, Systems Management Branch, HQ, Army Information Systems Command (AS-OPS-MR), Ft. Huachuca, AZ 85613-5000.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, as amended (5 U.S.C. 552a), have been published in the **Federal Register** as follows: 50 FR 22090, May 29, 1985 (Compilation, changes follow)

51 FR 23576, Jun 30, 1986
51 FR 30900, Aug 29, 1986
51 FR 40479, Nov 7, 1986
51 FR 44361, Dec 9, 1986
52 FR 11847, Apr 13, 1987
52 FR 18798, May 19, 1987
52 FR 25905, Jul 9, 1987
52 FR 32329, Aug 27, 1987
52 FR 43932, Nov 17, 1987
53 FR 12971, Apr 20, 1988
53 FR 16575, May 10, 1988
53 FR 21509, Jun 8, 1988
53 FR 28247, Jul 27, 1988
53 FR 29249, Jul 27, 1988
53 FR 28430, Jul 28, 1988
53 FR 34576, Sep 7, 1988
53 FR 49586, Dec 8, 1988
53 FR 51580, Dec 22, 1988
54 FR 10034, Mar 9, 1989
54 FR 11790, Mar 22, 1989
54 FR 14835, Apr 13, 1989
54 FR 46965, Nov 8, 1989

These three systems of records were formally under the purview of the Department of the Navy. They are being transferred to the Department of the Army's inventory and the amendments reflect this transfer. The specific changes to the records systems being amended are set forth below, followed by the systems notices, as amended, published in their entirety. The amended notices are not within the purview of subsection (r) of the Privacy Act, 5 U.S.C. 552a, which requires the submission of altered systems reports.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

November 29, 1989.

SYSTEM NAME:

A1021.01NDU

DODCI Student Record System.

SYSTEM LOCATION:

Department of Defense Computer Institute, Washington Navy Yard, Washington, DC 20374.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All students who have completed a course of instruction presented by the Department of Defense Computer Institute. These are primarily DOD military and civilian personnel as regular students; personnel from other federal, state and local government agencies who have attended courses on a space available basis; military and civilian personnel from foreign governments who requested and were granted authority to attend courses; and personnel from private industry who are under direct contract to a DOD activity who sponsor their attendance.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records consist of name, Social Security Number, home address, home telephone number, military rank or rate, civilian grade, branch of service, DOD agency or activity and course ID attended. Also, associated file of consolidated listing of students for each course offering arranged by DOD agency or activity and name.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and E.O. 9397.

PURPOSE(S):

Maintained by DODCI Student Operations Section to respond to individuals requesting official verification of attendance to a specific course; to respond to students, agency or activity requesting official record of training completed. Used to compile statistical data of student output, e.g., attendance by course, attendance by branch of service, agency or activity. Statistical data is not compiled by name.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The "Blanket Routine Uses" that appear at the beginning of the Department of the Army's compilation of systems of records apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Card file, paper copies forms, and hard disk/magnetic tape.

RETRIEVABILITY:

Name and course ID.

SAFEGUARDS:

Maintained in administrative office which is locked after normal working hours, accessible only to authorized office staff and director or delegate on demand.

RETENTION AND DISPOSAL:

Records are retained for five fiscal years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Student Operations Section, DoD Computer Institute, Building 175, Washington Navy Yard, Washington, DC 20374.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address inquiries to the Chief, Student Operations Section DoD Computer Institute, Building 175, Washington Navy Yard, Washington, DC 20374. Individual must provide course title and year of attendance.

RECORD ACCESS PROCEDURE:

Individuals seeking to access records about themselves contained in this system of records should address inquiries to the Chief, Student Operations Section, DoD Computer Institute, Building 175, Washington Navy Yard, Washington, DC 20374.

CONTESTING RECORD PROCEDURES:

The Department of the Army rules for accessing records and for contesting contents and appealing initial agency determinations by the individual concerned are published in Department of the Army Regulation 430–21–8; 32 CFR Part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Enrollment and registration request for DoD management education and training program courses (DD Form 1556, SF 182, orders, letters/messages), and course listing of students reviewed by course manager and individual students.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

A1021.02NDU

SYSTEM NAME:

DODCI Student/Faculty/Senior Staff Biography System

SYSTEM LOCATION:

Department of Defense Computer Institute, Washington Navy Yard, Washington, DC 20374.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All faculty members, senior staff members, and guest lecturers currently instructing or managing at the DODCI. All students who are attending or who have completed a course of instruction presented by the Department of Defense Computer Institute. These are primarily DoD military and civilian personnel as regular students; personnel from other federal, state and local government agencies who have attended courses on a space available basis; military and civilian personnel from foreign governments who requested and were granted authority to attend courses; and personnel from private industry who are under direct contract to a DoD activity who sponsor their attendance.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographic summary forms individually submitted upon request by each DODCI faculty member, senior staff member, guest lecturer, or student. Students record consists of name, rank or rate, civilian grade, organization and division, office phone number, current and previous job titles and positions, number of months with present job title, major duties of present job, formal education completed, course ID, objectives for attending DODCI course, computer-related and other technical training and experience, information on usage of computers in present position, influence and authority student has over design of computer-based systems including security and privacy aspects, extent involved in planning and design of teleprocessing systems.

Faculty/senior staff record consists of name, rank or rate, current and previous job titles and positions, former major duties, formal education completed, computer-related and other technical training experience.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301

PURPOSES(S):

The student biographical summaries are used by course managers and functional department heads to evaluate education level, computer related work experience, and general computer backgrouond of DODCI students. Establishes student qualifications to attend a requested course and if course objectives have satisfied personal objectives of students attending course. Statistical summarization of information contained in the system provides basis for modification and revision to course content. Serves as vehicle to place student into appropriate laboratory and seminar group in courses requiring such a breakout.

Information on faculty/senior staff members contained in the biographical summaries is provided to students as an attachment to their student notebooks. Records are used to identify faculty and senior staff members, areas of data processing and information management expertise for consultation purposes and as an expertise preamble to the next scheduled lecturer.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The "Blanket Routine Uses" that appear at the beginning of the Department of the Army's compilation of systems of records apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and computer hard disk/magnetic tape.

RETRIEVABILITY:

By name for faculty/senior staff members. Course ID and name for students.

SAFEGUARDS:

Maintained in Student Operations Section which is locked after normal working hours, access controlled by system manager and accessible only to authorized faculty members, director or administration, and director or delegate on demand.

RETENTION AND DISPOSAL:

All completed individual student biographical summaries are retained in a file folder marked by course ID and course date. Individual student biographical summaries are retained by course for two fiscal years preceding the fiscal year in progress. All individual faculty and senior staff biographical summaries are retained in a master file

folder until no longer providing services to DODCI. Master file is reviewed periodically to maintain currency.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Student Operations Section, DoD Computer Institute, Building 175, Washington Navy Yard, Washington, DC 20374.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address inquiries to the Chief, Student Operations Section, DoD Computer Institute, Building 175, Washington Navy Yard, Washington, DC 20374. Individual must provide course title and year of attendance.

RECORD ACCESS PROCEDURE:

Individuals seeking to access records about themselves contained in this system of records should address inquiries to the Chief, Student Operations Section, DoD Computer Institute, Building 175, Washington Navy Yard, Washington, DC 20374.

CONTESTING RECORD PROCEDURE:

The Department of the Army rules for accessing records and for contesting contents and appealing initial agency determinations by the individual concerned are published in Department of the Army Regulation 430–21–8; 32 CFR Part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Student biography forms are of DODCI origin and completed by each individual student. Forms are completed either the first day of the course or, in the case of certain specific courses, are mailed to the prospective student requesting return prior to commencement of the course.

Biographies are authorized by each faculty and senior staff member soon after arrival at DODCI. Guest lecturers are requested to voluntarily submit biographies for use in course notebooks. Content is never changed, but in some cases selectively reduced in length so as not to exceed one page. Format and content are generated solely by DODCI member and are subjected only to editorial review.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

A1021.03NDU

SYSTEM NAME:

DODCI Course Evaluation System.

SYSTEM LOCATION:

Department of Defense Computer Institute, Washington Navy Yard, Washington, DC 20374.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All students who have completed a course of instruction presented by the Department of Defense Computer Institute. These are primarily DoD military and civilian personnel as regular students; personnel from other federal, state and local government agencies who have attended courses on a space available basis; military and civilian personnel from foreign governments who requested and were granted authority to attend courses; and personnel from private industry who are under direct contract to a DoD activity who sponsor their attendance.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual student evaluation of entire course and random sampling of specific lecture presentations. Includes course ID; objectives for attending course; statement concerning realization of personal objectives, numerical or qualitative rating of overall course, lab sessions and/or specific lectures; list of strengths and weaknesses of course; list of lecture subjects of particular benefit or of little use to student; list of lecture subjects which should be expanded or reduced in coverage; and list of topics not covered in course but should be included. Comments concerning course content, sequence, lecture presentation, teaching techniques, audio visual aids, physical facilities and administrative support are solicited and recorded. Categories are posed as questions with ample space to encourage written response to student opinion in a structured but non-restrictive format. These Course Evaluation Forms also contain hard core factual information, i.e., course ID, course dates, student name, rank/rate/grade, branch of service, duty station or agency, and present job title.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE(S):

The system is used to evaluate course, lecture, teaching techniques and individual instructor effectiveness. It provides basis for modification and revision to course content and sequence and lecture content. It provides input to long-range plan for course update, additions and revisions. The evaluation of all attendees to a particular course are reviewed as a composite group by DODCI faculty members to determine problem areas, trends, and provides a continuous evaluation of course effectiveness.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The "Blanket Routine Uses" that appear at the beginning of the Department of the Army's compilation of systems of records apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and computer hard disk/magnetic tape.

RETRIEVABILITY:

Course ID and student name.

SAFEGUARDS:

Maintained in Student Operations Section Office which is locked after normal working hours, access controlled by system manager and accessible only to authorized faculty members. Director of Administration and Director delegate on demand.

RETENTION AND DISPOSAL:

All completed individual evaluations of students attending a specific course are retained by course ID and course date. Individual student evaluation forms are retained by course for two fiscal years preceding the fiscal year in progress.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Student Operations Section, DoD Computer Institute, Building 175, Washington Navy Yard, Washington, DC 20374.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address inquiries to the Chief, Student Operations Section, DoD Computer Institute, Building 175, Washington Navy Yard, Washington, DC 20374. Individual must provide course title and year of attendance.

RECORD ACCESS PROCEDURE:

Individuals seeking to access records about themselves contained in this system of record should address inquiries to the Chief, Student Operations Section, DoD Computer Institute, Building 175, Washington Navy Yard, Washington, DC 20374.

CONTESTING RECORD PROCEDURE:

The Department of the Army rules for accessing records and for contesting contents and appealing initial agency determinations by the individual concerned are published in Department of the Army Regulation 430–21–8; 32 CFR Part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Student course evaluation forms are of DODCI origin and distributed in class and completed by each individual student.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 89–28337 Filed 12–4–89; 8:45 am]

BILLING CODE 3910–01

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation (FAR); Information Collection Under OMB Review

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirements regarding Mistake in Bid.

ADDRESS: Send comments to Ms. Eyvette Flynn, FAR Desk Officer, OMB, Room 3235, NEOB, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mr. John L. O'Neill, Office of Federal Acquisition Policy, GSA (202) 523–3856 or Mr. Owen Green, Defense Acquisition Regulatory Council, (703) 697–7268.

SUPPLEMENTARY INFORMATION:

a. *Purpose:* When a mistake in bid is discovered by the contracting officer (CO) after bid opening but before award, the CO obtained verification of the bid intended. This verification is needed to establish the bidder's correct bid. If the bidder requests permission to correct the bid, the bidder must submit clear and convincing evidence that a mistake was made. If the bidder requests permission to correct the bid and submits evidence that a mistake was made, the evidence is analyzed by the CO to determine whether or not the bidder should be allowed to correct the bid. The data (evidence) submitted by the bidder is attached to bidder's bid and placed in the contract file along with the CO's determination.

The verification of the correct bid is attached to the original bid and a copy of the verification is attached to the duplicate bid and placed in the contract file.

b. *Annual reporting burden:* The annual reporting burden is estimated as follows: Respondents, 4,673; responses per respondent, *1;* total annual responses, *4,673;* hours per response, *.5;* and total response burden hours, *2,337.*

Obtaining Copies of Proposals: Requester may obtain copies from General Services Administration, FAR Secretariat (VRS), Room 4041, Washington, DC 20405, telephone (202) 523–4755. Please cite OMB Control No. 9000–0038, Mistake in Bid.

Dated: November 28, 1989.

Margaret A. Willis,

FAR Secretariat.

[FR Doc. 89–28369 Filed 11–28–89; 8:45 am]

BILLING CODE 6820–JC–M

Federal Acquisition Regulation (FAR); Information Collection Under OMB Review

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirements concerning Presolicitation Notice and Response.

ADDRESS: Send comments to Ms. Eyvette Flynn, FAR Desk Officer, OMB, Room 3235, NEOB, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mr. John L. O'Neill, Office of Federal Acquisition Policy, (202) 523–3856 or Mr. Owen Green, Defense Acquisition Regulatory Council, (703) 697–7268.

SUPPLEMENTARY INFORMATION:

a. *Purpose:* Presolicitation notices are used by the Government for several reasons, one of which is to aid prospective contractors in submitting proposals without undue expenditure of effort, time and money. The Government also uses the presolicitation notices to control printing and mailing costs. The presolicitation notice response are used to determine the number of solicitation documents needed and to assure that interested offerors receive the solicitation documents.

The responses are placed in the contract file and referred to when solicitation documents are ready for mailing. After mailing, the responses remain in the contract file and become a matter of record.

b. *Annual reporting burden:* The annual reporting burden is estimated as follows: Respondents, *5,900;* responses per respondent, *8;* total annual responses, *47,200;* hours per response, *.167;* and total response burden hours, *7,882.*

Obtaining Copies of Proposals: Requester may obtain copies from General Services Administration, FAR Secretariat (VRS), Room 4041, Washington, DC 20405, telephone (202) 523–4755. Please cite OMB Control No. 9000–0037, Presolicitation Notice and Response.

Dated: November 28, 1989.

Margaret A. Willis,

FAR Secretariat.

[FR Doc. 89–28370 Filed 12–4–89; 8:45 am]

BILLING CODE 6820–JC

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP89–1121–003, RP90–17–001]

Mississippi River Transmission Corp.; Filing

November 28, 1989.

Take notice that on November 20, 1989, Mississippi River Transmission Corporation (MRT) filed Substitute Thirty-Sixth Revised Sheet No. 4 and Alternate Substitute Thirty-Sixth Revised Sheet No. 4 to its FERC Gas Tariff, Second Revised Volume No. 1, to be effective December 1, 1989.

MRT states that these tariff sheets, which were previously filed on October 23, 1989, contained an error in the D–2 rate component of the Base Tariff Rate. As a result of the error, MRT states that the Demand Charge D–2 under Schedule CD–1 and the single part rates under

Rate Schedule SGS–1 and PI–1 have been overstated by approximately 1.2 cents. MRT requests that the Commission substitute the tariff sheets filed November 20, 1989, which reflects the correct Base Tariff Rates, in lieu of the two tariff sheets filed on October 23, 1989.

MRT states that a copy of this filing has been on all of its jurisdictional customers and state commission.

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 Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1989)). All such protests should be filed on or before December 5, 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. 89–28321 Filed 12–4–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. TQ90–1–25–001 and TM90–2–25–001]

Mississippi River Transmission

November 28, 1989.

Take notice that on November 20, 1989, Mississippi River Transmission Corporation (MRT) filed revised tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1.

MRT states that the Thirty-Seventh Revised Sheet No. 4 and Alternate Thirty-Seventh Revised Sheet No. 4 filed therewith contained an error in the D–2 rate component of the Base Tariff Rate. MRT also states that the result of the error, Demand Charge D–2 under Rate Schedule CD–1 and the single part rates under Rate Schedule SGS–1 and PT–1 are overstated by approximately 1.2¢. MRT states that the reduction was approved by FERC Order dated September 18, 1989, but inadvertently not reflected in MRT's October 23, 1989 compliance filing in Docket No. CP89–1121, or in the October 30, 1989 filing with this proceeding.

MRT states that a copy of this filing with tariff sheets is being served to each of MRT's jurisdictional customers and to the State Commissions of Arkansas, Illinios and Missouri.

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 Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1989). All such protests should be filed on or before December 7, 1989. Protests with 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. 89–28317 Filed 12–4–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. TQ90–1–25–002 and CP89–1121–004]

Mississippi River Transmission Corp.; Tariff Filing

November 28, 1989.

Take notice that on November 22, 1989, Mississippi River Transmission Corporation (MRT) submitted for filing the below listed tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1. These tariff sheets reflect a December 1, 1989 effective date.

Substitute Thirty-Seventh Revised Sheet No. 4

Substitute Alternate Thirty-Seventh Revised Sheet No. 4

MRT states that on October 30, 1989, it submitted its quarterly purchased gas cost adjustment (PGA) in the captioned proceedings. MRT later determined that Thirty-Seventh Revised Sheet No. 4 and Alternate Thirty-Seventh Revised Sheet No. 4 filed therewith were incorrect because they did not appropriately reflect an approximate 1.2¢ reduction in the D–2 rate component of the Base Tariff Rate of MRT's sale for resale rate schedules. MRT claims such reduction had been approved by Commission order dated September 18, 1989 in Docket No. CP89–1121, but inadvertently was not reflected as part of the October 30, 1989 PGA filing.

MRT requests waiver of the notice provisions of its tariff and the Commission's Regulations to permit the tariff sheets contained in the instant filing to be placed in effect December 1, 1989 in lieu of those previously submitted.

MRT states that copies of the filing have been served upon all of MRT's jurisdictional customers and state commissions, as well as on all parties reflected on the Commission's Official Service Lists in the above-captioned dockets.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 7, 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. 89–28318 Filed 12–4–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM90–3–37–000]

Northwest Pipeline Corp.; Change in FERC Gas Tariff

November 28, 1989.

Take notice that on November 22, 1989, Northwest Pipeline Corporation ("Northwest") tendered for filing and acceptance the following tariff sheets:

First Revised Volume No. 1

Thirty-Second Revised Sheet No. 10–A

Original Volume No. 1–A

Sixth Revised Sheet No. 202

Original Volume No. 2

Seventh Revised Sheet No. 2.2

Eighteenth Revised Sheet No. 2–B

Northwest states that the purpose of this filing is to restate its fuel reimbursement percentages consistent with the separate gathering service established pursuant to the Joint Offer of Settlement in Docket No. RP88–47 which was approved by Commission order dated October 19, 1989, and which became "final" on November 20, 1989.

Northwest requests waiver of the Commission's regulations to permit an effective date of December 1, 1989. A copy of this filing has been served on all parties of record in this docket and on all affected state regulatory commissions.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before December 7, 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. 89-28319 Filed 12-4-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA89-1-55-002]

Questar Pipeline Co.; Rate Change

November 28, 1989.

Take notice that on November 22, 1989, Questar Pipeline Company tendered for filing and acceptance certain revised tariff sheets to its FERC Gas Tariff as follows:

Tariff sheet	Proposed effective date
First Revised Volume No. 1	
Second Revised Second Substitute Twenty-First Revised Sheet No. 12	June 1, 1989.
Second Revised Substitute Twenty-Second Revised Sheet No. 12	July 1, 1989.
Second Revised Second Substitute Twenty-Third Revised Sheet No. 12	Sept. 1, 1989.
Second Revised Second Substitute Twenty-Fourth Revised Sheet No. 12	Oct. 1, 1989.
Second Revised Twenty-Fifth Revised Sheet No. 12	Nov. 1, 1989.
First Revised Twenty-Sixth Revised Sheet No. 12	Dec. 1, 1989.
First Revised Twenty-Seventh Revised Sheet No. 12	Jan. 1, 1989.

Questar Pipeline states that the purpose of the filing is to comply with the Commission letter order dated November 7, 1989, on the captioned docket.

Any person desiring to protest this 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 and 385.211, (1988)). All such protests should be filed on or before December 7, 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,

Sectary.

[FR Doc. 89-28322 Filed 12-4-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. FA86-19-001]

System Energy Resources, Inc.; Filing

November 28, 1989.

Take notice that on November 22, 1989, System Energy Resources, Inc. tendered for filing its compliance refund report pursuant to the Commission's order issued on September 20, 1989.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 12, 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. 89-28323 Filed 12-4-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP85-177-071, CP88-136-017, RP88-67-027]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on November 20, 1989 tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, six copies of the following tariff sheets:

Proposed to be Effective August 28, 1989
- Substitute Third Revised Sheet No. 485
- Substitute Third Revised Sheet No. 486
- Substitute Fifth Revised Sheet No. 489

Proposed to be Effective October 16, 1989
- Substitute Sixth Revised Sheet No. 484
- Substitute Fourth Revised Sheet No. 485
- Substitute Fourth Revised Sheet No. 486
- Substitute Third Revised Sheet No. 487
- Substitute Third Revised Sheet No. 488
- Substitute Sixth Revised Sheet No. 489

Proposed to be Effective November 1, 1989
- Substitute Seventh Revised Sheet No. 484
- Substitute Fourth Revised Sheet No. 488

Texas Eastern states that the purpose of this filing is to reflect the revisions to Texas Eastern's September 13, October 13, and October 31, 1989 tariff filings as required by the Commission's November 3, 1989 Order on Rehearing (November 3 Order) in Docket Nos. RP85-177-063, CP88-136-008, and RP88-67-014.

Texas Eastern states that Ordering Paragraph (C) of the November 3 Order requires Texas Eastern to lower Associated Natural Gas Company's (Associated) D-2 billing determinant to reflect the nomination level contained in its recently executed Rate Schedule CD-2 agreement. Sheet No. 484 proposed to be effective October 16, 1989 reflects such lower D-2 billing determinant. In addition, consistent with the November 3 Order Texas Eastern is also lowering the D-2 billing determinants for United Cities Gas Co. effective August 28, 1989 and for Allied Gas Company, *et al.*, the City of Cairo, Illinois, and the Borough of Chambersburg, Pa. effective October 16, 1989. These revisions are reflected on Sheet Nos. 484 and 488. These lower D-2 billing determinants are based on lower annual contract levels nominated new Rate Schedule CD-2 agreements that have been executed by these customers.

Texas Eastern is also correcting Equitrans, Inc.'s (Equitrans) D-2 levels as contained in the October 31, 1989 tariff filing in Docket No. RP90-30. Equitrans, in a motion filed on November 14, 1989, stated the proposed D-2 billing determinants contained in the October 31, 1989 filing for Equitrans should be 32,560,555 dekatherms. Texas Eastern agrees and Sheet No. 487 proposed to be effective October 16, 1989 reflects the D-2 billing determinant favored by Equitrans which is lower than the currently effective D-2, and is based on the Annual Contract Quantity contained in its new Rate Schedule CD-1 agreement.

This proposed effective dates of the above tariff sheets are as listed above.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance

with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before December 5, 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. 89-28324 Filed 12-4-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90-2-49-000]

Williston Basin Interstate Pipeline Co.; Gas Research Institute Funding Unit Adjustment Filing

November 28, 1989.

Take notice that on November 22, 1989, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff the following tariff sheets:

First Revised Volume No. 1

First Revised Twentieth Revised Sheet No. 10

Original Volume No. 1-A

First Revised Fifteenth Revised Sheet No. 11

Twentieth Revised Sheet No. 12

Original Volume No. 1-B

First Revised Ninth Revised Sheet No. 10

First Revised Ninth Revised Sheet No. 11

Original Volume No. 2

Fifteenth Revised Sheet No. 11B

The proposed effective date of the tariff sheets is January 1, 1990.

Williston Basin states that the instant filing reflects the inclusion of the Gas Research Institute funding unit of 1.26 cents per Dkt (1.30 cents per Mcf), as authorized by the Commission in its "Opinion Amending and Approving Gas Research Institute's 1990 Research Development and Demonstration Program and Related Five-year plan for 1990-1994," issued on October 10, 1989 in Docket No. RP89-187-000.

Any person desiring to be heard or to protest said tariff application should file a petition to intervene or protest with the Federal Energy Regulatory Commission. 825 North Capitol Street NE., Washington, DC 20426, in accordance with the Commission's Rules 211 and 214. All such petitions or protests should be filed on or before December 7, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a petition to intervene. Copies of the filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-28320 Filed 12-4-89; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[FE Docket No. 89-78-NG]

Carson Water Co.; Application To Export Natural Gas to Mexico

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application for blanket authorization to export natural gas to Mexico.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on November 6, 1989, of an application filed by Carson Water Company (Carson) requesting blanket authorization to export from the United States to Mexico up to 4,000,000 Mcf of natural gas over a two-year period commencing with the date of first delivery. Carson intends to use existing pipeline facilities within the United States and at the international border for transportation of the exported gas. Carson states that it will advise the DOE of the date of first delivery and submit quarterly reports detailing each transaction.

The application was filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene, or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., e.s.t., January 4, 1990.

ADDRESS: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Room 3F-056, FE-50, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC. 20585.

FOR FURTHER INFORMATION:

Thomas Dukes, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F-056, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9590.

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-6667.

SUPPLEMENTARY INFORMATION: Carson, a wholly-owned subsidiary of Southwest Gas Corporation (Southwest) located in Las Vegas, Nevada, is a landholding and natural gas development company incorporated in the State of Nevada. Carson intends to export natural gas to Mexico for spot market sales, primarily to the Mexican local distribution company exports will be provided by producers in, but not limited to, Mexico and Texas, and transported in the United States to the Mexican border by El Paso Natural Gas Company (El Paso). Carson will arrange the proposed export sales through its marketer, Santa Fe Gas Marketing (Santa Fe), a division of Carson.

Carson states that all export sales will result from arms-length negotiations and that prices will be determined by market conditions. Carson further states that in addition to furthering DOE policy goals of enhancing cross-border competition in the marketplace, that the adequate supply of gas in the United States' coupled with the short-term nature of blanket export authority requested make it unlikely the export volumes would be needed domestically during the term of the authorization.

This export application will be reviewed under section 3 of the natural Gas Act and the authority contained in DOE Delegation Order Nos. 0204-111 and and 0204-127. In deciding whether the proposed export of natural gas is in the public interest, domestic need for the gas will be considered, and any other issue determined to be appropriate, including whether competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those that may oppose this application, should comment on these matters as they relate to the requested export authority. The applicant asserts that there is no current need for the domestic gas that would be exported under the proposed arrangements. Parties opposing this arrangement bear the burden of overcoming this assertion.

All parties should be aware that if this blanket export application is granted, the authorization may permit the export of the gas at any point of exit on the international border where existing pipeline facilities are located.

Carson requests that an authorization be granted on an expedited basis. A decision on Carson's request for

expedited treatment will not be made until all responses to this notice have been received and evaluated.

NEPA Compliance

The DOE has determined that compliance with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, can be accomplished by means of a categorical exclusion. On March 27, 1989, the DOE published in the **Federal Register** (54 FR 12474) a notice of amendments to its guidelines for compliance with NEPA. In that notice, the DOE added to its list of categorical exclusions the approval or disapproval of an import/export authorization for natural gas in cases not involving new construction. Application of the categorical exclusion in any particular case raises a rebuttable presumption that the DOE's action is not a major Federal action under NEPA. Unless the DOE receives comments indicating that the presumption does not or should not apply in this case, no further NEPA review will be conducted by the DOE.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notices of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and response filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Carson's application is available for inspection and copying in the Office of Fuels Programs Docket Room, Room 3F–056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., e.s.t., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on November 28, 1989.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 89–28383 Filed 12–4–89; 8:45 am]

BILLING CODE 6450–01–M

[FE DOCKET NO. 89–55–NG]

JMC Selkirk, Inc.; Application for Authorization To Import Natural Gas

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application for authorization to import natural gas.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy DOE gives notice of receipt on August 11, 1989, of an application filed by JMC Selkirk, Inc. (JMC Selkirk) for long-term authorization to import from Paramount Resources Ltd. (Paramount), up to a maximum daily quantity (MDQ) of 23,000 Mcf of Canadian natural gas to fuel the initial unit of a new cogeneration facility to be constructed at the site of the General Electric Company plastics facility in Selkirk, New York. JMC Selkirk requests authorization to import the gas beginning on an interruptible basis for a six-month testing period, and thereafter on a firm basis for 15 years commencing upon commercial operation. The 79-megawatt unit is expected to commence commercial operation in late 1991.

The application is filed under section 3 of the Natural Gas Act (NGA) and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene, or notices of intervention, as applicable, requests for additional procedures and written comment are to be filed at the address listed below no later than 4:30 p.m., e.s.t., January 4, 1990.

ADDRESS: Office of Fuels Programs, Fossil Energy, Room 3F–056, FE–50, Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Robert M. Stronach, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F–056, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9622;

Diane J. Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: JMC Selkirk, a Delaware corporation with its principal place of business in Boston, Massachusetts, will develop, own and operate the cogeneration plant. Bechtel Power Corporation has been selected as the turn-key contractor to construct the initial unit. Niagara Mohawk Power Corporation (Niagara Mohawk) has agreed to purchase electricity under a power sales agreement that was approved by the New York Public Service Commission on March 30, 1987.

JMC Selkirk and Paramount have agreed upon the terms of a gas purchase contract that will be executed upon receipt and acceptance of all necessary regulatory authorizations. Firm deliveries of gas are to commence upon commercial operation of the initial unit after interruptible deliveries to provide gas for testing the initial unit. It is noted that a second, 250-megawatt unit, not encompassed by this application, is expected to commence commercial operation in late 1993.

The point of delivery would be the point of interconnection between the provincial pipeline systems and TransCanada PipeLines Limited (TransCanada) near Empress, Alberta.

JMC Selkirk would be responsible for downstream transportation costs via TransCanada, Iroquois Gas Transmission System (Iroquois) and Tennessee Gas Pipeline Company (Tennessee) to the plant site in Selkirk, New York. The initial 100 percent load factor rates to be charged by Iroquois and Tennessee are projected to be $.41 and $.2012 per MMBtu, respectively.

Both Iroquois (Docket No. CP89–634–000) and Tennessee (Docket No. CP89–629–000) have applied to the Fedreal Energy Regulatory Commission (FERC) for authority under section 7 of the NGA to construct facilities and to transport the gas.

The MDQ of 23,000 Mcf would be subject to reduction if the applicant takes less than 75 percent of the annual contract quantity (MDQ times the number of days in the contract year) and fails to make up the deficiency in the succeeding contract year. In addition, according to the application, JMC Selkirk would be required to pay Paramount an amount equal to the product of the deficiency times the applicable commodity rate, plus interest.

The price for firm sales at the Empress, Alberta, delivery point would be comprised of a monthly demand charge and a commodity charge for each MMBtu of gas delivered. The demand charge is equal to the average demand charge per MMBtu at 100 percent load factor for provincial pipeline deliveries to Empress, Alberta, and any monthly take-or-pay liabilities. The commodity charge would initially be equal to $1.60 (U.S.) per MMBtu, less the 100 percent load factor charge for provincial pipeline deliveries to Empress, Alberta. This base price would be subject to monthly adjustments based on changes in a pricing index comprised of the gas cost component of CNG Transmission Corporation's RQ rate schedule and the price of No. 6 fuel oil (Platt's Oilgram Price Report, spot cargoes, New York harbor). The fuel components of the pricing index would be weighted based on the production each fuel is utilized by Niagara Mohawk to produce electricity provided, however, that in no event will the gas component be less than one-third of the fuel index. Either party would be able to request renegotiation of the commodity price and method of adjustment at the end of any contract year. Absent agreement, there would be limited provision for arbitration. The express purpose of arbitration, according to the proposed contract, would be to produce net-back prices comparable to net-backs under other long-term contracts entered into by Alberta producers.

The price for interruptible sales would be a one-part price. It would consist of the sum of the commodity price for firm sales under the contract and either the per Mcf demand charge at 100 percent load factor for firm sales under the contract or the actual cost to Paramount of interruptible transportation.

The decision on this application for import authority will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Other matters to be considered in making a public interest determination in a long-term import proposal such as this include the need for the gas and security of the long-term supply. Parties that may oppose this application should comment in their responses on the issues of competitiveness, need for the gas, and security of supply as set forth in the policy guidelines. The applicant asserts that this import arrangement is in the public interest because the volumes are needed by the proposed new cogeneration facility, the price of the gas is competitive, and its Canadian supplier is reliable. Parties opposing the import arrangement bear the burden of overcoming these assertions.

All parties should be aware that if the requested import is approved, the authorization would be conditioned on the filing of quarterly reports indicating volumes imported and the purchase price.

NEPA Compliance

The National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) requires the DOE to give appropriate consideration to the environmental effects of its proposed actions. The FERC is currently preparing an Environmental Impact Statement (EIS) in FERC Docket Nos. CP89–629–000 and CP89–634–000 on the impacts of constructing and operating the proposed pipeline facilities. The DOE is a cooperating agency in the EIS process and any natural gas import authorization issued concerning the volumes to be imported would be conditioned upon completion of that process. No final decision will be issued in this proceeding until the DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of JMC Selkirk's application is available for inspection and copying in the Office of Fuels Programs Docket Room, Room 3F–056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, November 28, 1989.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 89-28384 Filed 12-4-89; 8:45 am]

BILLING CODE 6450-01-M

Floodplain Involvement Notification for Subsurface Oil Production Project; Caddo-Pine Island Field, Caddo, Parish, LA

AGENCY: Office of Fossil Energy, DOD.

ACTION: Notice of floodplain involvement.

SUMMARY: The Department of Energy (DOE) proposes to fund operations by the Improved Gravity Drainage (IGD) Company of Houston of a subsurface oil production demonstration project in the Caddo-Pine Island Field, Caddo Parish, Louisiana, under a cost-shared grant. This project is a research and development program action to develop and demonstrate an underground approach to secure access to a shallow, low pressure oil reservoir via shafts and entries, and allowing the oil to drain by gravity into high angle and horizontal wells into the mine located in strata underneath the oil reservoir. Proposed surface-disturbing activities include three evaluation wells, two mine shafts and associated operations, flowlines, a salftwater injection well, and access roads. All surface activities and oil and gas waste disposal will take place outside of upland wetlands areas which are in the general vicinity of the proposed action. Floodplains involved include Clyde Place Canal-Black Bayou. In accordance with DOE regulations for compliance with flooplain/wetland environmental review requirements (10 CFR part 10220), DOE will prepare a floodplain/wetland assessment which will be incorporated into an environmental assessment for this proposed action. Maps and further information are available from DOE at the address shown below.

DATE: December 20, 1989.

ADDRESS: Address comments to the Director, U.S. Department of Energy, Metairie Site Office, 900 Commerce Road East, New Orleans, Louisiana 70123.

Issued at Washington, DC, November 28, 1989.

Michael R. McElwrath,

Acting Assistant Secretary, Fossil Energy.

[FR Doc. 89-28382 Filed 12-4-89; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3693-6]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requests (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICRs describe the nature of the information collection and their expected costs and burdens; where appropriate, they include the actual data collection instruments.

DATE: Comments must be submitted on or before January 4, 1990.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: NSPS for Equipment Leaks of VOC in the Synthetic Organic Chemical Manufacturing Industry. (IRC #0662.03; OMB #2060-0012). This is a reinstatement of a previously approved collection.

Abstract: Owners or operators of plants producing any organic chemical must keep records of VOC's emission from process equipment leaks at various intervals. They must also submit reports of these leaks and VOC's emission to EPA. EPA uses these data to determine industry's compliance with the standards.

Burden Statement: The public reporting burden for this collection of information is estimated to average 9.42 hours per response for reporting, and 80 hours annually per recordkeeper. This estimate includes the time needed to review instructions, search existing data sources, gather the data needed and review the collection of information.

Respondents: Owners/operators of synthetic organic chemical manufacturing industry.

Estimated No. of Respondents: 1,162.

Estimated Total Annual Burden on Respondents: 123,826 hours.

Frequency of collection: Semi-annually.

Title: NSPS for Metallic Mineral Processing Plants (Subpart LL). (ICR #0982.03; OMB #2060-0016). This is a reinstatement of a previously approved collection.

Abstract: Owners/operators must notify EPA of construction, modifications, startups, shutdowns, date and results of initial performance test. Owners/operators of facilities using any wet scrubbing device must install, calibrate, and maintain continuous monitoring devices to measure pressure drop and flow rate. Weekly records of the pressure drop and flow rate must be maintained, and semi-annual reports must be submitted when pressure drop and flow rate differ from the most recent performance test. EPA uses these data to determine compliance with the standards.

Burden Statement: The public reporting burden for this collection of information is estimated to average 34 hours per response, with two responses per respondent, and 62.5 annual hours per recordkeepers. This estimate includes the time needed to review instructions, search existing data sources, gather the data needed and complete and review the collection of information.

Respondents: Owners/operators of metallic mineral processing plants.

Estimated No. of Respondents. 11.

Estimated Total Annual Burden on Respondents: 1,436 hours.

Frequency of Collection: Semi-annually.

Send comments regarding the burden estimates, or any other aspect of the information collections, including suggestions for reducing the burdens, to:

Sandy Farmer,
U.S. Environmental Protection Agency,
Information Policy Branch,
401 M Street, SW.,
Washington, DC 20460

and

Nicolas Garcia,
Office of Management and Budget,
Office of Information and Regulatory Affairs,
726 Jackson Place, NW.,
Washington, DC 20530.

Dated: November 27, 1989.

Richard Westlund,

Acting Director, Information and Regulatory Systems Division.

[FR Doc. 89-28381 Filed 12-4-89; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act.

SUMMARY: The submission is summarized as follows:

Type of Review: Revision of a currently approved collection.
Title: Consolidated Reports of Condition and Income (Insured State Nonmember Commercial and Savings Banks).
Form Number: FFIEC 031, 032, 033, 034.
OMB Number: 3064–0052.
Expiration Date of Current OMB Clearance: August 31, 1990.
Frequency of Response: Quarterly.
Respondents: Insured state nonmember commercial and savings banks.
Number of Respondents: 8,053.
Number of Responses Per Respondent: 4.
Total Annual Responses: 32,212.
Average Number of Hours Per Response: 21.94.
Total Annual Burden Hours: 706,624.
OMB Reviewer: Gary Waxman, (202) 395–7340, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.
FIDC Contact: John Keiper, (202) 898–3810, Assistant Executive Secretary, Room 6096, Federal Deposit Insurance Corporation, 550 17th Steet, NW., Washington, DC 20429.
Comments: Comments on this collection of information are welcome and should be submitted on or before January 4, 1990.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed. Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: The FDIC is submitting for OMB review changes to the FFIEC Consolidated Reports of Condition and Income (Call Reports) filed quarterly by insured state nonmember commercial and savings banks. These changes will fulfill two objectives: (1) To provide the banking agencies with sufficient data to permit the monitoring of banks' risk-based capital levels, while limiting the amount of information reported by individual banks on the basis of bank size and capital level and (2) to provide other data considered necessary for bank supervisory purposes, particularly with respect to the nature and extent of banks' off-balance sheet activities. These changes will be implemented through the adoption of:

(1) A new risk-based capital schedule (Schedule RC–R), including a simplified risk-based capital test for banks with less than $1 billion in total assets whose outcome will determine whether such banks are exempt from completing the entire schedule;

(2) A revised version of the current off-balance sheet schedule (Schedule RC–L);

(3) Modifications of existing items or the addition of new items in five other schedules applicable to all reporting banks:

(a) The reclassification on the balance sheet (Schedule RC) of surplus (additional paid-in capital) related to perpetual preferred stock;

(b) A more detailed breakdown in the securities schedule (Schedule RC–B) of bank holdings of "U.S. Government agency and corporation obligations" and "Securities issued by states and political subdivisions in the U.S." with the present item for taxable municipal securities moved to a memorandum item;

(c) A new memorandum item in the deposit schedule (Schedule RC–E) for foreign currency denominated deposits (in domestic offices);

(d) A new item for noncumulative perpetual preferred stock and related surplus (and a new item on qualifying intangibles for national banks only) in the memoranda schedule (Schedule RC–M); and

(e) A new memorandum item for the number of deposit accounts of $100,000 or less in the schedule for deposit insurance data (Schedule RC–O); and

(4) The addition of a new memorandum item on nonaccrual residential mortgages in the supplemental schedule (Schedule RC–J) completed only by savings banks.

The effective data for these reporting changes, if approved, will be the March 31, 1990, report date, except for the change to Schedule RC–O which will take effect as of June 30, 1990. Nonetheless, as is customary for Call Report changes, banks may provide reasonable estimates for any of the new items in their March 31, 1990, Call Reports for which the requested information is not readily available.

Dated: November 29, 1989.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 89–28338 Filed 12–4–89; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL RESERVE SYSTEM

First Bancorporation of Ohio, et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 27, 1989.

A. **Federal Reserve Bank of Cleveland** (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *First Bancorporation of Ohio*, Akron, Ohio; to engage *de novo*, through its subsidiary, Bancorp Trust Company, National Association, Naples, Florida, in trust company activities pursuant to § 225.25(b)(3) of the Board's Regulation Y.

B. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230

South LaSalle Street, Chicago, Illinois 60690:

1. *Citizens Bancshares, Inc.*, Walnut, Illinois; to engage *de novo* in insurance agency activities in a small town pursuant to § 225.25(b)(8)(iii) of the Board's Regulation Y. These activities will be conducted in the Villages of Ohio and Walnut, Illinois.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *U.S. Bancorp*, Portland, Oregon; to engage *de novo* through a yet-to-be-named re-insurance company, in underwriting credit-related insurance pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, November 29, 1989.

William W. Wiles,

Secretary of the Board.

[FR Doc. 89-28341 Filed 12-4-89; 8:45 am]

BILLING CODE 6210-01-M

Norwest Corp.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in section 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 22, 1989.

A. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Norwest Corporation*, Minneapolis, Minnesota; to acquire First Interstate Management Services of Wisconsin, Inc., Sheboygan, Minnesota, and thereby engage in management consulting activities pursuant to § 225.25(b)(11); and courier services to be conducted in connection with data processing activities pursuant to § 225.25(b)(10) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, November 29, 1989.

William W. Wiles,

Secretary of the Board.

[FR Doc. 89-28342 Filed 12-4-89; 8:45 am]

BILLING CODE 6210-01-M

Star Banc Corp., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless ottherwise noted, comments regarding each of these applications must be received not later than December 22, 1989.

A. **Federal Reserve Bank of Cleveland** (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Star Banc Corporation*, Cincinnati, Ohio; to acquire 100 percent of the voting shares of Fir-Ban, Inc., Verona, Kentucky, and thereby indirectly acquire Verona Bank, Verona, Kentucky.

B. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *FCFT, Inc.*, Princeton, West Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of Flat Top Bankshares, Inc., Bluefield, West Virginia, and thereby indirectly acquire The Flat Top National Bank of Bluefield, Bluefield, West Virginia, and Peoples Bank of Bluewell, Bluewell, West Virginia; and First Community Bancshares, Inc., Princeton, West Virginia, and thereby indirectly acquire First Community Bank, Inc., Princeton, West Virginia.

C. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Farmers National Bancorp, Inc.*, Genesco, Illinois; to acquire 100 percent of the voting shares of woodhull State Bank, Woodhull, Illinois.

D. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Corn Belt Bancorp, Inc.*, Pittsfield, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Corn Belt Bank and Trust Company, Pittsfield, Illinois.

Board of Governors of the Federal Reserve System, November 29, 1989.

William W. Wiles,

Secretary of the Board.

[FR Doc. 89-28343 Filed 12-4-89; 8:45 am]

BILLING CODE 6210-01-M

The Toronto-Dominion Bank; Proposals To Underwrite and Deal in Certain Securities to a Limited Extent, Conduct Private Placements of All Types of Securities as Agent, and Engage in Other Securities-Related Activities

The Toronto-Dominion Bank, Toronto, Ontario, Canada ("Applicant"), has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) (the "Act") and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)), for prior approval to engage through Toronto Dominion Securities Corp. ("Company") in the following activities: (1) Underwriting and dealing, to a limited

extent, in commercial paper (which will be of prime quality, short-term, sold in minimum denominations of $100,000, and exempt from registration requirements of the Securities Act of 1933), municipal revenue bonds (including industrial development bonds that are limited to "public ownership" industrial development bonds, where the issuer or the governmental unit on behalf of which the banks are issued is the sole owner of the financed facility), 1–4 family mortgage-related securities, and consumer receivable-related securities ("ineligible securities"); (2) the placement, as agent for issuers, of all types of obligations and securities, registered and nonregistered; (3) providing financial and transaction advice, including (i) advice in connection with mergers and acquisitions, divestitures, financing transactions, capital structuring, loan syndications, interest rate swaps, interest rate caps, and similar currency and interest rate transactions; (ii) acting as broker with respect to interest rate swaps, caps, and similar currency and interest rate transactions; and (iii) providing valuations and fairness opinions in connection with mergers, acquisitions, and similar transactions; (4) providing securities brokerage and investment advice on a combined basis ("full-service brokerage") to institutional and retail customers; (5) arranging for sales of loans or other extensions of credit originated by affiliated and unaffiliated lenders as agent; and (6) providing financial advice to Canadian federal, provincial, and municipal governments and their agents with respect to the issuance of their securities in the United States. Company would conduct the proposed activities on a nationwide basis.

Applicant also proposed to engage, through Company, as an incident to the underwriting activities described above, in hedging its positions by engaging in forward, futures, options, and options on futures contracts. Company is currently authorized to underwrite and deal in obligations that state member banks are permitted to underwrite and deal in under the Glass-Steagall Act.

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with prior Board approval, engage directly or indirectly in any activities "which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto."

Applicant has applied to underwrite and deal in ineligible securities as set forth in the Board's Orders approving those activities for a number of bank holding companies, with certain exceptions. See, e.g., Chemical New York Corporation, The Chase Manhattan Corporation, Bankers Trust New York Corporation, Citicorp, Manufacturers Hanover Corporation, and Security Pacific Corporation, 73 Federal Reserve Bulletin 731 (1987); and Citicorp, J.P. Morgan & Co. Incorporated, and Bankers Trust New York Corporation, 73 Federal Reserve Bulletin 473 (1987). In particular, Applicant has proposed that certain of the limitations placed on the underwriting and dealing activities in the above Orders be limited to Applicant's U.S. operations.

The Board has also approved the private placement of all types of obligations and securities under certain limitations. See J.P. Morgan & Company Incorporated, ___ Federal Reserve Bulletin ___ (November 22, 1989); Bankers Trust New York Corporation, ___ Federal Reserve Bulletin ___ (October 30, 1989). Applicant has agreed to comply with most of the limitations placed on those activities, with certain exceptions. In particular, Applicant has proposed that certain of the limitations placed on the private placement activities in the above Orders be limited to Applicant's U.S. operations.

Applicant has applied to engage in providing financial and transaction advice pursuant to the Board's Orders in Signet Banking Corporation, 73 Federal Reserve Bulletin 59 (1987) and The Nippon Credit Bank, Ltd., 75 Federal Reserve Bulletin 308 (1989). The Board approved the brokerage of interest rate and currency swaps in The Sumitomo Bank, Limited, 75 Federal Reserve Bulletin 582 (1989).

Applicant has applied to engage in full-service brokerage activities as set forth in the Board's Orders approving those activities for a number of bank holding companies. *See*, e.g., First Union Corporation, 75 Federal Reserve Bulletin 645 (1989); SouthTrust Corporation, 75 Federal Reserve Bulletin 647 (1989); The Bank of New England Corporation, 74 Federal Reserve Bulletin 700 (1988).

In addition, the Board has previously approved acting as financial advisor to Canadian goernmental entities and their agents. See, e.g., Canadian Imperial Bank of Commerce, 74 Federal Reserve Bulletin 571 (1988). Finally, the proposed activity of arranging loan sales is encompassed within the authorization of § 225.25(b)(1) of the Baord's Regulation Y, 12 CFR 225.25(b)(1). See Bryn Mawr Bank Corporation, 74 Federal Reserve Bulletin 329 (1988).

Applicant contends that approval of the application would not be barred by section 20 of the Glass-Steagall Act (12 U.S.C. 377), which prohibits the affiliation of a member bank with a firm that is "engaged principally" in the "underwriting, public sale or distribution" of securities. Applicant contends that it would not be "engaged principally" in underwriting or dealing in bank-ineligible securities on the basis of its commitment not to engage in such activities in an amount exceeding 10 percent of Applicant's gross revenue in any rolling two-year period. *See* Board's Order dated September 21, 1989. In addition, Applicant contends that the proposed placement activities do not raise an issue under section 20 in that the proposed activities do not differ in any material respect from those approved in Bankers Trust New York Corporation, 73 Federal Reserve Bulletin 138 (1987), and *Securities Industry Ass'n v. Board of Governors*, 807 F.2d 1052 (D.C. Cir. 1986), cert. denied, 483 U.S. 1005 (1987).

In publishing the proposal for comment, the Board does not take any position on issues raised by the proposal under the Act. Notice of the proposal is published solely in order to seek the views of interested persons on the issues presented by the application and does not represent a determination by the Board that the proposal meets or is likely to meet the standards of the Act.

Any views or requests for a hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than January 4, 1989. Any request for a hearing must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Board of Governors of the Federal Reserve System, November 29, 1989.

William W. Wiles,

Secretary of the Board.

[FR Doc. 89–28344 Filed 12–4–89; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF THE INTERIOR

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: University of Nevada, Las Vegas, Las Vegas, NV; PRT–742984

The applicant requests a permit to place desert tortoises (*Gopherus agassizii*) in temperature-controlled rooms and draw blood from the tortoises via cardiac puncture to measure the effect of cold-acclimation on blood-gas transport in this species. The tortoises will be obtained on loan from the Nevada Department of Wildlife.

Applicant: Reynolds Electrical & Engineering Co., Inc., Las Vegas, NV, PRT–744522

The applicant requests a permit to capture, mark, weigh, attach radio transmitters, and release desert tortoises (*Gopherus agassizii*) on the Nevada Test Site in Nye County, Nevada, for scientific research purposes. Applicant also requests authorization to salvage road-killed specimens and parts, including shells, found on the Test Site.

Applicant: Institute for Conservation Biology, c/o Stanford University, Stanford, CA, PRT–744580

The applicant requests a permit to live-trap salt marsh harvest mice (*Reithrodontomys raviventris*) in tidal and diked marsh on Central San Francisco Bay near Corte Madera, California, to established whether this species exists on land that has been designated for construction of a flood control barrier. Any mice trapped will be sexed, weighed, assessed for reproductive condition and immediately released.

Applicant: Knoxville Zoological Gardens, Knoxville, TN, PRT–744704

The applicant requests a permit to import one captive born male drill (*Papio leucophaeus*) from the Burgers' Zoo, The Netherlands, for purposes of zoological display and captive breeding.

Applicant: Hawthorn Corporation, Grayslake, IL, PRT–744705

The applicant requests a permit to import four male and five female tigers (*Panthera tigris*) from Japan. The tigers were born to applicant's tigers while on tour in Japan and will be imported, reexported and reimported for display and breeding purposes.

Applicant: Michael J. O'Farrell, Las Vegas, NV, PRT–744707

The applicant requests a permit to live-trap, mark, measure, and release Stephen's kangaroo rats (*Dipodomys stephensi*) throughout this species' historic range in California for survey and research purposes.

Applicant: Jones & Stokes Associates, Inc., Sacramento, CA, PRT–744677

The applicant requests a permit to live-trap, radio-collar, sex, weigh, tag, draw blood and release San Joaquin kit foxes (*Vulpes macrotis mutica*) in Fort Hunter Liggett, Monterey County, California to determine kit fox habitat use, movement, home range, probable causes of mortality, use of artificial dens, food habits, food preferences and the effects of operation of the U.S. Army Corps of Engineers Multi-Purpose Range Complex on kit foxes.

Applicant: San Diego Wild Animal Park, San Diego, CA, PRT–744556

The applicant requests a permit to import one captive-born male drill (*Papio leucophaeus*) from the Hannover Zoo, West Germany, for the purpose of captive propagation.

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: November 29, 1989.

Karen Wilson,

Acting Chief, Branch of Permits, U.S. Office of Management Authority.

[FR Doc. 89–28333 Filed 12–4–89; 8:45 am]

BILLING CODE 4310–55–M

Availability of an Environmental Assessment and Receipt of an Application for an Incidental Take Permit for the Proposed State Correctional Facility Near Delano, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The California Department of Corrections (CDC) has applied to the Fish and Wildlife Service (Service) for an incidental take permit pursuant to section 10(a) of the Endangered Species Act (Act). The application has been assigned permit Number PRT 744882. The proposed permit, which is for a period not to exceed 50 years, would authorize the incidental take of three endangered species; San Joaquin kit fox (*Vulpes macrotis mutica*), blunt-nosed leopard lizard (*Gambelia silus*), and Tipton kangaroo rat (*Dipodomys nitratoides nitratoides*). The proposed take would occur as a result of the construction and operation of a 2,450-bed prison on a 634.83-acre site near Delano, Kern County, California.

The Service has prepared an environmental assessment (EA) for the incidental take permit application. The Finding of No Significant Impact (FONSI) will not be signed before 30 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

DATES: Written comments on the permit application and EA should be received on or before January 4, 1990.

ADDRESS: Comments regarding the adequacy of the EA should be addressed to: Mr. Wayne S. White, Field Supervisor, U.S. Fish and Service, Sacramento Field Station, 2800 Cottage Way, Room #1823, Sacramento, California 95824–1846. Interested parties may comment on the application by submitting written views, arguments, or data to: Director, U.S. Office of Management Authority, P.O. Box 3507, Arlington, Virginia 22203–3507. Please refer to the file number PRT 74482 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Mr. William E. Lehman, U.S. Fish and Wildlife Service, Sacramento Field Station, 2800 Cottage Way, Room #1823, Sacramento, California 95825–1846 (916/978–4866 or FTS 460–4866). Individuals wishing copies of the EA for review should immediately contact the above individual. Individuals wishing a copy of the incidental take permit application should immediately contact Susan Lawrence of the Office of Management Authority (703/358–2104 or FTS 921–2104).

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the "taking" of endangered species, like the San Joaquin kit fox, blunt-nosed leopard lizard, and Tipton kangaroo rat. However, the Service, under limited circumstances, may issue permits to take endangered wildlife species if such taking is incidental to, and not the purpose of otherwise lawful activities. Regulations

governing permits for endangered species are at 50 CFR 17.22.

The CDC plans to construct and operate a prison on a 634.83-acre parcel, which is located approximately 3 miles northwest of Delano, Kern County, California. The parcel includes the western half of Section 5 and the eastern half of Section 6 in Township 25 South, Range 25 East (Mount Diablo Baseline Meridian). The proposed State correctional facility consists of a 2,450-bed prison that comprises a 1,750-bed reception center, 500-bed medium-security facility, and 200-bed minimum-security support facility. Other facility structures include a warehouse, vehicle maintenance building, fire station, central kitchen building, and a firing range. These structures will permanently eliminate 287.32 acres of endangered species habitat. In addition, operation activities (e.g., driving to and from facility) may effect additional take of endangered species remaining on the unused portion of parcel or adjoining land. CDC proposes to compensate the incidental take via several on-site and off-site mitigation measures. Such measures include the off-site acquisition and fencing of 514 acres of endangered species habitat, a maintenance endowment of $514,200 for the acquired habitat, the revegetation of disturbed sites outside the prison operation area with native plants, the attempted removal of endangered species from the future operation area, and various on-site measures to be undertaken by CDC during construction and operation of their facility.

Although the CDC considered two alternative sites, both parcels were rejected because of endangered species impacts, impacts to adjoining agricultural lands, local concerns, and/or high acquisition cost. CDC maintains that the failure to complete this project at "the selected site would result in unacceptably high levels of inmate overcrowding in the state-wide prison system." The selection of either alternative site would result in a construction delay of seven months to a year according to the CDC. Selection of a new alternative site would delay construction an additional year.

Dated: November 30, 1989.

Susan Lawrence,

Acting Chief, Branch of Permits, U.S. Office of Management Authority.

[FR Doc. 89-28352 Filed 12-4-89; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Refunds Due Payors as a Result of Federal Regulatory Commission Orders Nos. 451 and 451-A

November 28, 1989.

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice to stop 2-year period under Section 10 of the Outer Continental Shelf Lands Act.

SUMMARY: The purpose of this Notice is to announce that the 2-year period prescibed in Section 10 of the Outer Continental Shelf Lands Act is stopped for refund requests resulting from a recent court decision invalidating Federal Energy Regulatory Commission (FERC) Order Nos. 451 and 451-A.

EFFECTIVE DATE: December 5, 1989.

ADDRESSES: All written requests for further information should be submitted to the Minerals Management Service, Royalty Management Program, Colorado 80225, Attention: Dennis C. Whitcomb.

FOR FURTHER INFORMATION CONTACT: Mr. Dennis Whitcomb, Rules and Procedures Branch, FTS 326-3432, (303) 231-3432.

SUPPLEMENTARY INFORMATION:

I. Background

The FERC Order No. 451 which was published in the **Federal Register** on July 18, 1986 (51 FR 22166), allowed producers to renegotiate the prices they received for interstate gas qualifying under NGPA sections 104 and 106 (old interstate gas). Under Order No. 451, which was effective July 18, 1986, producers were allowed to negotiate with their purchasers for a price higher than the then current NGPA maximum lawful price (MLP) for any of their old interstate gas, up to a price equal to the MLP for Post-1974 gas.

Producers could obtain a higher price for their old interstate gas through price nomination under the "Good Faith Negotiation" (GFN) procedures or through voluntary renegotiations with their purchasers outside of the scope of the GFN procedures. The GFN procedures also authorized purchasers to negotiate lower prices for new gas under any contracts covering both old and new interstate gas. Under Order No. 451, the GFN procedures could not be implemented until after October 31, 1986, however, voluntary negotiations could commence any time after July 18, 1986. Order No. 451 also provided for certain gas contracts to be abandoned if negotiations under the GFN procedures were not successful. Once abandoned, that gas was eligible for prices up to the MLP for Post-1974 gas under any new contract that the producer could secure. Under Order No 451-A, which was published in the **Federal Register** on December 24, 1986 (51 FR 46762), FERC modified and clarified the procedures for price renegotiations and extended the starting date of the implementation of GFN procedures to after January 23, 1987.

On February 5, 1988, FERC issued Order No. 490, which was published in the **Federal Register** on February 12, 1988 (53 FR 4121). This rule, which was effective April 12, 1988, permitted abandonment of old interstate gas under contracts that terminated, expired, or were modified after the effective date of the Order. Consequently, such gas would become eligible for prices up to the MLP for Post-1974 gas in accordance with Order No. 451.

The U.S. Court of Appeals for the Fifth Circuit recently vacated FERC Orders 451 and 451-A in *Mobil Oil Exploration and Producing Southeast Incorporated et al. v. Federal Energy Regulatory Commission* (No. 86-4940, September 15, 1989). The court held that FERC exceeded the scope of its authority under the NGPA in promulgating Order No. 451. In addition, the appeals court determined that pregranted abandonment did not comply with the requirements of section 7(b) of the Natural Gas Act of 1938. Therefore, any prices higher than the NGPA-established MLP for old interstate gas paid pursuant to any negotiation or renegotiation under Order Nos. 451 or 451-A are invalidated under this decision. This includes prices paid pursuant to (1) voluntary renegotiations, (2) renegotiations under the GFN procedures, (3) new contracts covering gas abandoned under the GFN procedures, and (4) new contracts covering gas abandoned pursuant to Order No. 490.

Federal and Indian lessees who paid royalty based on the higher negotiated or renegotiated prices may be due a refund on the portion of royalty based on the protion of the price in excess of that permitted in the *Mobil* v. *FERC* decision if that decision is upheld. The FERC has requested that the Fifth Circuit reconsider its decision.

II. Section 10 Notice

For Outer Continental Shelf (OCS) leases, applicants are referred to Solicitor's Opinion M-36942, 88 I.D. 1090 (1981), regarding the 2-year period for filing of refund requests under Section 10 of the OCS Lands Act of 1953, 43 U.S.C. 1339. Notice is hereby provided that MMS is stopping the running of the

2-year period as of September 15, 1989, the date of the Fifth Circuit's decision, for refunds resulting from this decision. Therefore, royalty payors may wait until a final decision in *Mobil* v. *FERC* and the issuance of any FERC refund procedures before filing royalty refund requests with MMS. It is not necessary for payors to file preliminary or contingent refund requests to stop the running of the 2-year period in Section 10. Refund requests should follow the procedures in Section 4.4.2 of the MMS *Oil and Gas Payor Handbook.*

III. Unauthorized Recoupments

Payors may not recoup any amount they claim as a result of the decision in *Mobil* v. *FERC* against a current or future royalty payment obligation without following the procedures prescribed in Section 4.4.2 of the MMS *Oil and Gas Payor Handbook.* See *Santa Fe Energy Company,* 106 IB 333. Taking unauthorized recoupments may result in enforcement action, including the assessment of civil penalties authorized under 30 CFR 241.51 (1988). See 30 U.S.C. 1719 and 43 U.S.C. 1350.

Dated: November 28, 1989.

Jerry D. Hill,

Associate Director for Royalty Management.

[FR Doc. 89–28354 Filed 12–4–89; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

Extension of Period of Availability of Draft Environmental Impact Statement/General Management Plan/ Minerals Management Plan (EIS/GMP/ MMP) for Big Cypress National Preserve, FL

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the National Park Service, U.S. Department of the Interior, has prepared a Draft Environmental Impact Statement on the General Management Plan/Minerals Management Plan for Big Cypress National Preserve. The GMP/ MMP presents a basic management philosophy that meets the legislative requirements for resource protection and for public use and enjoyment of the preserve, it guides the National Park Service in addressing issues and achieving management objectives over a 10- to 15-year period. This document was previously made available for public comment for a period of 90 days ending December 1, 1989.

DATES: Comments on the Draft EIS/ GMP/MMP will be accepted for an additional period of 90 days ending on March 1, 1990.

ADDRESSES: Comments should be sent to the Regional Director, Southeast Region, National Park Service, 75 Spring Street, SW., Atlanta, Georgia 30303. Copies of the EIS/GMP/MMP are available for review at the following locations.

National Park Service, Southeast Regional Office, 75 Spring Street, SW., Atlanta, Georgia

Broward County Public Library, 1301 West Companys Road, Fort Lauderdale, Florida

Homestead Public Library, 700 North Homestead, Homestead, Florida

Miami-Dade Public Library, 101 West Flagler Street, Miami, Florida

Collier County Public Library, 650 Central Avenue, Naples, Florida

Everglades National Park Headquarters, Homestead, Florida

Big Cypress National Preserve, Headquarters and Oasis Ranger Station, Ochopee, Florida

Big Cypress Land Acquisition Office, 201 8th Street, South, Naples, Florida.

FOR FURTHER INFORMATION CONTACT: Fred Fagergren, Superintendent, Big Cypress National Preserve, Star Route Box 110, Ochopee, Florida 33943, Telephone (813) 695–2000.

Robert F. Newkirk,

Regional Director, Southeast Region.

[FR Doc. 89–28361 Filed 12–4–89; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–88 (Sub-No. 4X)]

Bessemer and Lake Erie Railroad Co.—Abandonment Exemption in Butler County, PA

Applicant has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon its 2.8-mile line of railroad between milepost 7.1, near Boyers, and milepost 9.9, near Hilliards, in Butler County, PA.

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 January 4, 1990 (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 December 15, 1989.[3] Petitions for reconsideration and requests for public use conditions under 49 CFR 1152.28 must be filed by December 26, 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: Kimberly J. Gallagher, Bessemer and Lake Erie Railroad Company, P.O. Box 68, 135 Jamison Lane, Monroeville, PA 15146.

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 December 8, 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

[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.

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: November 29, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89-28399 Filed 12-4-89; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-88 (Sub-No. 5X)]

Bessemer and Lake Erie Railroad Co.—Abandonment Exemption in Erie County, PA

Applicant has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon its 5.73-mile line of railroad between Survey Station 303+85, at or near Lexington, and a point near Survey Station 6+00, about 1.5 miles west of Lake City, Erie County, PA.

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 January 4, 1990 (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 December 15, 1989.[3] Petitions for reconsideration and requests for public use conditions under 49 CFR 1152.28 must be filed by December 26, 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: Kimberly J. Gallagher, Bessemer and Lake Erie Railroad Company, P.O. Box 68, 135 Jamison Lane, Monroeville, PA 15146.

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 December 8, 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: November 29, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89-28398 Filed 12-4-89; 8:45 am]

BILLING CODE 7035-01-M

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[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—Officers 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.

[Docket No. AB-290 (Sub-No. 75)]

Wabash Railroad Co. and Norfolk and Western Railway Co.—Abandonment and Discontinuance—In Will, Kankakee, Livingston, Ford and Champaign Counties, IL; Notice of Findings

The Commission has found that the public convenience and necessity permit the Wabash Railroad Company to abandon and the Norfolk and Western Railway Company (NW) to discontinue operations over 81.85 miles of railroad in Illinois between: (a) milepost C-40.9 (Manhattan), and milepost C-114.3 (Gibson City); (b) milepost F-6.3 and milepost F-7.25 (Honegger); and (c) milepost SC-327.6 (Sidney), and milepost SC-336.1 (Urbana). NW is also granted authority to abandon 0.7 mile of railroad at Gibson City, IL located between mileposts SP-339.4 and SP-340.1, and to discontinue trackage rights operations over 5.4 miles of line owned by Toledo, Peoria and Western Railway Company (TPW) between milepost TP-46.4 (Forrest), and milepost TP-51.8 (Honegger).

A certificate will be issued authorizing abandonment unless, within 15 days after this publication, the Commission also finds that: (1) a financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served on the applicant no later than 10 days from publication of this notice. The following notation must be typed in bold face on the lower left-hand corner of the envelope: "**Rail Section, AB-OFA.**" Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Decided: November 28, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Lamboley, Phillips, and Emmett. Commissioner Lamboley commented with a separate expression.

Noreta R. McGee,

Secretary.

[FR Doc. 89-28364 Filed 12-4-89; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Final Judgment by Consent Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on November 24, 1989, a Consent Decree in *United States* v. *Alcan Aluminum Corp., et al.*, Civil Action No. 3:CV–89–1657, was lodged with the United States District Court for the Middle District of Pennsylvania.

The complaint filed by the United States alleges that Alcan Aluminum Corp., BASF Corp., Beazer Materials and Services, Inc., Borg-Warner Corp., Carrier Corp., Chemical Leaman Tank Lines, Inc., Chemical Management, Inc., Chrysler Motors Corp., Dana Corp., Dart Industries Inc., Exxon Corp., Ford Motor Company, Goulds Pumps, Inc., Hitchcock Gas Engine Company, Inc., Ingersoll-Rand Company, NEAPCO, Inc., Rome Strip Steel Co., Inc., The Stanley Works, Inc., TRW, Inc., and United Technologies Corp., are responsible to reimburse the United States for costs incurred by the Environmental Protection Agency ("EPA") in responding to the release and threatened release of hazardous substances from the Butler Tunnel Superfund Site in Pittston, Pennsylvania (the "Site") from September 1985 through January 7, 1987. The complaint alleges that the Defendants arranged for the transport to and disposal of liquid wastes containing hazardous substances at the Site. Also in the complaint, the United States, on behalf of EPA, seeks judgment against the Defendants jointly and severally for reimbursement of response costs in excess of $814,000.00, under section 107(a) of CERCLA, 42 U.S.C. 9607(a).

In the Consent Decree, seventeen "Settling Defendants", BASF Corp., Beazer Materials and Services, Inc., Borg-Warner Corp., Carrier Corp., Chemical Leaman Tank Lines, Inc., Chrysler Motors Corp., Dana Corp., Dart Industries, Inc., Exxon Corp., Ford Motor Company, Goulds Pumps, Inc., Hitchcock Gas Engine Company, Inc., Ingersoll-Rand Company, Rome Strip Steel Co., Inc., The Stanley Works, Inc., TRW, Inc., and United Technologies Corp., have agreed to reimburse the Hazardous Substance Response Trust Fund (the "Fund") in the amount of $600,000.00. The United States, on behalf of the Department of Defense, has also agreed to reimburse the Fund $28,500.00, to resolve the Settling Defendants' claims for contribution under section 113(f) of CERCLA, 42 U.S.C. 9613(f), against the United States. Defendants Alcan Aluminum Corp., Chemical Management, Inc., and NEAPCO, Inc., have not agreed to resolve their liability to the United States.

The Department of Justice will receive comments relating to the proposed Consent Decree for a period of thirty days from the date of publication of this notice. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. Alcan Aluminum Corp., et al.*, DOJ Ref. No. 90–11–3–134. The proposed Consent Decree may be examined at the office of the United States Attorney, Middle District of Pennsylvania, U.S. Courthouse and Post Office, Suite 309, Scranton, Pennsylvania. Copies of the Consent Decree may also be examined and obtained in person at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Room 6314, Tenth and Pennsylvania Avenue, NW., Washington, DC. A copy of the proposed Consent Decree may be obtained by mail from the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Box 7611, Ben Franklin Station, Washington, DC 20044. When requesting a copy of the Consent Decree by mail, please enclose a check in the amount of $3.20 (ten cents per page reproduction costs) payable to the Treasurer of the United States.

Richard B. Stewart,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89–28379 Filed 12–4–89; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 15, 1989.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 15, 1989.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213.

Signed at Washington, DC, this 27th day of November 1989.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition number	Articles produced
A.O. Smith Electrical Product Co. (IBEW)	Upper Sandusky, OH	11/27/89	11/11/89	23,636	Electrical Motors.
AT&T Network Systems (IBEW)	Oklahoma City, OK	11/27/89	11/15/89	23,637	Computers & Switch Equipment.
Allen-Bradley Co. (Workers)	Greensboro, NC	11/27/89	10/27/89	23,638	Electronic Components.
Bank One (Workers)	Odessa, TX	11/27/89	11/2/89	23,639	Banking Services.
Digicon Geophysical Corp. (Workers)	Oklahoma City, OK	11/27/89	11/10/89	23,640	Oil & Gas.

Appendix

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition number	Articles produced
Eaton Corp. (Workers)	Marion, OH	11/27/89	11/7/89	23,641	Forgings for Trucks.
Eltee Pulsitron, Inc. (Workers)	W Coldwell, NJ	11/27/89	10/27/89	23,642	Machine Tools.
Flushing Shirt Co. (ACTWU)	Frostburg, MD	11/27/89	11/14/89	23,643	Uniform Shirts.
(The) Grove Co. (Workers)	St. Louis, MO	11/27/89	11/1/89	23,644	Ladies' Sportswear.
Harris Smith Drilling Co. (Company)	Ardmore, OK	11/27/89	11/9/89	23,645	Drilling Oil & Gas.
Health-Tex (ACTWU)	Cumberland, RI	11/27/89	11/14/89	23,646	Childrens' Playwear.
Hy Grade Corp. (ACTWU)	Taylor & Old Forge, PA	11/27/89	11/14/89	23,647	Men's & Women's Pants.
ITT Hancock (UAW)	Ithaca, MI	11/27/89	11/4/89	23,648	Automative Power Seat Adjusters.
Microwave Products of America, Inc. (Company).	Sioux Falls, SD	11/27/89	10/16/89	23,649	Microwave Ovens.
Microwave Products of America, Inc. (Company).	Memphis, TN	11/27/89	10/26/89	23,650	Microwave Ovens.
Pandora Industries, Inc. (Workers)	Manchester, NH	11/27/89	11/15/89	23,651	Misses' Sportswear.
Seminole of Houston (ACTWU)	Houston, MS	11/27/89	11/14/89	23,652	Men's Slacks.
Square D. Co. (IBEW)	Secaucus, NJ	11/27/89	11/8/89	23,653	Panelboards, Switchboards & Switchgears.
(The) Tailors Shop (ACTWU)	Old Forge, PA	11/27/89	11/14/89	23,654	Mens' & Ladies' Pants & Shorts.
Teledyne Portland Forge (Boilermakers)	Portlnd, IN	11/27/89	11/10/89	23,655	Gear Forgings.
Trico Products Corp. (UAW)	Buffalo, NY	11/27/89	11/7/89	23,656	Windshield Wiper Systems.
Vassarette (ACTWU)	Hamilton, AL	11/27/89	11/14/89	23,657	Ladies' Undergarments.
Villager Inc. (ILGWU)	Philadelphia, PA	10/30/89	10/16/89	23,658	Ladies' Sportswear.

[FR Doc. 89-28371 Filed 12-4-89; 8:45 am]
BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period November 1989.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-23,427; Sensus Technologies, Inc., Uniontown, PA

TA-W-23,443; Ellwood City Iron & Wire Co., Ellwood City, PA

TA-W-23,442; Corlett-Turner Co., Holland, MI

TA-W-23,271; Pullman Power Products, Williamsport, PA

In the following cases, the investigation revealed that the criteria for eligibility has not been met for the reasons specified.

TA-W-23,414; Coopervision Cilco, Bellevue, WA

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,451; Robinson Thread Co., Worcester, MA

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,425; Pulsonix, Inc., Englewood, CO

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,437; AT&T Microelectronics, Richmond, VA

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,455; Wella Corp., Englewood, NJ

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,488; France Rental Tool, Inc., Lafayette, LA

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,419; Mid-Continent Supply Co., Fort Worth, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,420; Mid-Continent Supply Co., Natchez, MS

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,463; Balcron Oil, Billings, MT

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-23,445; Hercules Engines, Inc., Canton, OH

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,477; Swaco Oilfield Services, Casper, WY

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,440; Bluebonnet Savings Bank, Colorado City, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,527; Transcontinent Oil Co., Denver, CO

Increased imports did not contribute importantly to workers separations at the firm.

TA–W–23,447; Lee C. Moore Corp., Tulsa, OK

U.S. imports of oilfield machinery were negligible.

TA–W–23,415; Cotter Corp., Schwartzwalder Mine, Golden, CO

The investigation revealed that criterion (1) has not been met. Employment did not decline during the relevant period as required for certification.

Affirmative Determinations

TA–W–23,417; Grand Drilling, Inc., Breckenridge, TX

A certification was issued covering all workers separated on or after September 14, 1988 and before November 1, 1989.

TA–W–23,409; American Recreation Products, Inc., New Haven, MO

A certification was issued covering all workers separated on or after September 14, 1988.

TA–W–23,416; Cuddle Wit, Inc., Orange, NJ

A certification was issued covering all workers separated on or after September 11, 1988.

TA–W–23,435; Van Dorn Plastic Machinery Co., West Boylston, MA

A certification was issued covering all workers separated on or after September 12, 1988.

TA–W–23,456; Coleman-Western Cutlery, Longmont, CO

A certification was issued covering all workers separated on or after September 19, 1988.

TA–W–23,452; Rooster, Inc., Philadelphia, PA

A certification was issued covering all workers separated on or after September 22, 1988 and before July 31, 1989.

TA–W–23,453; Ship'n Shore, Div. of Crystal Brands, Inc., Barley, GA

A certification was issued covering all workers separated on or after September 20, 1988.

TA–W–23,426; Seagate Technology, Delray Beach, FL

A certification was issued covering all workers separated on or after January 1, 1989.

TA–W–21,145; Transit American, Inc., Philadelphia, PA

A certification was issued covering all workers separated on or after September 19, 1988.

TA–W–21,184; Geosource, Inc., Houston, TX

A certification was issued covering all workers separated on or after October 1, 1985.

TA–W–21,184A; Geosource, Inc., Denver, CO

A certification was issued covering all workers separated on or after October 1, 1985.

TA–W–21,184B; Geosource, Inc., Midland, TX

A certification was issued covering all workers separated on or after October 1, 1985.

TA–W–21,184C; Geosource, Inc., New Orleans, TX

A certification was issued covering all workers separated on or after October 1, 1988.

TA–W–21,228; Smith Energy Service, Golden, CO

A certification was issued covering all workers separated on or after October 1, 1985.

TA–W–21,229; Smith Energy Service, Brighton, CO

A certification was issued covering all workers separated on or after October 1, 1985.

TA–W–21,230; Smith Energy Service, Rangely, CO

A certification was issued covering all workers separated on or after October 1, 1985.

TA–W–21,231; Smith Energy Service, Williston, ND

A certification was issued covering all workers separated on or after October 1, 1985.

TA–W–21,232; Smith Energy Service, Fruita, CO

A certification was issued covering all workers separated on or after October 1, 1985.

TA–W–21,233; Smith Energy Service, Casper, WY

A certification was issued covering all workers separated on or after October 1, 1985.

TA–W–21,234; Smith Energy Service, Farmington, NM

A certification was issued covering all workers separated on or after October 1, 1985.

TA–W–21,235; Smith Energy Service, Midland, TX

A certification was issued covering all workers separated on or after October 1, 1985.

TA–W–21,235A; Smith Energy Service, Odessa, TX

A certification was issued covering all workers separated on or after October 1, 1985.

TA–W–21,235B; Smith Energy Service, El Reno, OK

A certification was issued covering all workers separated on or after October 1, 1985.

TA–W–21,235C; Smith Energy Service, Oklahoma City, OK

A certification was issued covering all workers separated on or after October 1, 1985.

TA–W–21,235D; Smith Energy Service, Denver, CO

A certification was issued covering all workers separated on or after October 1, 1985.

TA–W–21,484; The Louisiana Land & Exploration Co., Oklahoma City, OK

A certification was issued covering all workers separated on or after October 1, 1985.

TA–W–21,483; The Louisiana Land & Exploration Co., New Orleans, LA

A certification was issued covering all workers separated on or after October 1, 1985.

TA–W–21,485; The Louisiana Land & Exploration Co., So. Louisiana Div., Houma, LA

A certification was issued covering all workers separated on or after October 1, 1985.

TA–W–21,486; The Louisiana Land & Exploration Co., So. Eastern Dist., Lafayette, LA

A certification was issued covering all workers separated on or after October 1, 1985.

TA–W–21,805; CRC Mallard Workover & Drilling, Inc., Lafayette, LA

A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1988.

TA–W–21,623 and TA–W–21,624; Forman Petroleum Corp., New Orleans, LA

A certification was issued covering all workers separated on or after October 1, 1985.

TA–W–21,632; John Drilling Co., Odessa, TX

A certification was issued covering all workers separated on or after October 1, 1985.

TA–W–21,713; Dixilyn-Field Drilling Co., Houston, TX

A certification was issued covering all workers separated on or after October 1, 1985 and before August 30, 1987.

TA–W–22,070; Shields Drilling Co., Inc., Russell, KS

A certification was issued covering all workers separated on or after October 1, 1985.

TA–W–21,566; Hamman Oil & Refining Co., Houston, TX

A certification was issued covering all workers separated on or after October 1, 1987.

TA–W–21,658; Phoenix Management Corp., Houston, TX

A certification was issued covering all workers separated on or after October 1, 1985 and before September 30, 1987.

TA–W–21,600; Buzzini Drilling Co., Kennedy, TX

A certification was issued covering all workers separated on or after October 1, 1985.

TA–W–21,172; Dekalb Industries, Smithville, TN

A certification was issued covering all workers separated on or after September 19, 1987 and before July 30, 1988.

TA–W–21,620; Elder Well Servicing Co., San Angelo, TX

A certification was issued covering all workers separated on or after October 1, 1985.

TA–W–21,659; Portland Manufacturing Co., Inc., Portland, TN

A certification was issued covering all workers separated on or after October 1, 1987 and before July 30, 1988.

TA–W–21,791; Baker & Taylor Drilling Co., Inc., Amarillo, TX

A certification was issued covering all workers separated on or after October 1, 1985.

TA–W–21,975; Sundance Exploration, Amarillo, TX

A certification was issued covering all workers separated on or after October 1, 1985.

TA–W–21,804; Co2 In Action, Amarillo, TX

A certification was issued covering all workers separated on or after October 1, 1985.

TA–W–21,758; Seismograph Service Corp., Englewood, CO

A certification was issued covering all workers separated on or after October 1, 1985.

TA–W–21,440; Jeansville Corp, Orangburg, SC

A certification was issued covering all workers separated on or after October 7, 1987 and before November 30, 1988.

TA–W–21,667; Steven A. Zanetis Drilling & Producing, Olney, IL

A certification was issued covering all workers separated on or after November 4, 1987.

TA–W–22,040; Gilmore, Howard & Provins Drilling Co., Traverse City, MI

A certification was issued covering all workers separated on or after October 1, 1985.

TA–W–21,603; Cardinal Drilling Co., Billings MT

A certification was issued covering all workers separated on or after October 1, 1985.

TA–W–21,935; Scientific Drilling International, Headquartered In Houston, TX And At Various Plant Locations:

TA–W–21,935A Bakerfield, CA
TA–W–21,953B Ventura, CA
TA–W–21,953C Lafayette, LA
TA–W–21,953D New Orleans, LA
TA–W–21,953E Oklahoma City, OK
TA–W–21,953F Midland, TX
TA–W–21,953G Casper, WY

A certification was issued covering all workers separated on or after October 1, 1985.

TA–W–21,673; Tolle, Inc., Corpus Christi, TX

A certification was issued covering all workers separated on or after October 1, 1985.

TA–W–21,501; Young Exploration Co., Oklahoma City, OK

A certification was issued covering all workers separated on or after October 1, 1985.

TA–W–21,725; Hope Drilling Co., Inc., Santa Anna, TX

A certification was issued covering all workers separated on or after October 1, 1985.

TA–W–21,696; Butler Johnson, Inc., Shreveport, LA

A certification was issued covering all workers separated on or after October 1, 1985.

TA–W–22,296; Otis Engineering Corp., Corpus Christi, TX

A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1988.

TA–W–22,297; Otis Engineering Corp., New Iberia, LA

A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1988.

TA–W–22,264; Wilbros Drilling Co., Inc., Midland, TX

A certification was issued covering all workers separated on or after October 1, 1985.

TA–W–22,264A; Wilbros Drilling Co., Inc. Located In The State of TX

A certification was issued covering all workers separated on or after October 1, 1985.

TA–W–21,988; Tri-State Oil Tool, Inc., Bossier City, LA

A certification was issued covering all workers separated on or after October 1, 1985.

TA–W–21,989; Tri-State Oil Tool, Inc., Lafayette, LA

A certification was issued covering all workers separated on or after October 1, 1985.

TA–W–22,015; Bullock Drilling Co., Inc., Casper, ND

A certification was issued covering all workers separated on or after October 1, 1985 and before June 1, 1986.

TA–W–22,142; Geoservice, Inc., Denver, CO

A certification was issued covering all workers separated on or after October 1, 1985 and before July 15, 1986.

TA–W–22,143; Geoservice, Inc., Houston, TX

A certification was issued covering all workers separated on or after July 15, 1986 and before January 31, 1987.

TA–W–21,677; WEK Drilling, Roswell, NM

A certification was issued covering all workers separated on or after October 1, 1985.

TA–W–21,993; Venango Drilling, Oil City, PA

A certification was issued covering all workers separated on or after December 1, 1987.

TA–W–21,914; Nabors Alaska Drilling, Inc., Anchorage, AK

A certification was issued covering all workers separated on or after July 1, 1986 and before January 1, 1988.

TS–W–21,821; Damson Oil Corp., Houston, TX & Operating at Various Locations in The Following States:

TA–W–21,821A CA
TA–W–21,821B CO
TA–W–21,821C IL
TA–W–21,821D IN
TA–W–21,821E LA
TA–W–21,821F MT
TA–W–21,821G NM
TA–W–21,821H ND
TA–W–21,821I OK
TA–W–21,821J PA
TA–W–21,821K TX
TA–W–21,821L WY

A certification was issued covering all workers separated on or after November 1, 1987.

TA–W–22,231; Holiday Formals, Inc., Hialeah, FL

A certification was issued covering all workers separated on or after November 16, 1987.

TA–W–22,266; Wyatt Drilling Co., Fairfield, IL

A certification was issued covering all workers separated on or after October 1, 1985 and before March 31, 1987.

TA–W–22,034; Farrar Oil Co., Mount Vernon, IL

A certification was issued covering all workers engaged in services related to drilling services separated on or after October 1, 1985.

TA–W–22,023; Crystal Springs Oil, Inc., Seneca, PA

A certification was issued covering all workers separated on or after October 1, 1985 and before March 26, 1987

TA–W–22,314; Crescent Petroleum Corp., Corpus Christi, TX

A certification was issued covering all workers separated on or after October 1, 1985 and before June 1, 1987.

I hereby certify that the aforementioned determinations were issued during the month of November 1989. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213 during normal business hours or will be mailed to persons who to write to the above address.

Dated: November 28, 1989.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 89–28372 Filed 12–4–89; 8:45 am]

BILLING CODE 4510–30–M

Occupational Safety and Health Administration

Alaska State Standards; Notice of Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR part 1902. On September 28, 1984, notice was published in the **Federal Register** (49 FR 38252) announcing final approval of the State's plan and amending subpart R of part 1952.

The Alaska plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. Section 1953.20 provides that where any alteration in the Federal program could have an adverse impact on the at least as effective status of the State program, a program change supplement to a State plan shall be required.

By letter dated March 4, 1987, from Jim Sampson, Commissioner, to James W. Lake, Regional Administrator, and incorporated as part of the plan, the State on its own initiative submitted an amendment to AAC 07., Logging Code, Article 1. The Code was originally approved in the **Federal Register** (41 FR 56409) on December 28, 1976.

The State standard amendment, which is contained in Subchapter 07., Alaska Occupational Safety and Health Code, was adopted by the State on December 17, 1986, with an effective date of January 16, 1987, under authority vested in Jim Sampson, Commissioner, by AS 18.60.020, and after notice and opportunity for public comments under AS 44.62.190, 44.62.200, and 44.62.210.

The State-initiated amendment was developed to address the hazards of hillside logging and employee exposure to dislodged unstable objects rolling downhill. This amendment provides safe work practices.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that there is no comparable Federal standard and that the State standard continues to be as effective as when previously approved in the **Federal Register**. The State amendment does not diminish current standards in effect and is minor in nature. OSHA therefore approves this standard amendment; however, the right to reconsider this approval is reserved should substantial objections be submitted to the Assistant Secretary.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following location: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington, 98174; State of Alaska, Department of Labor, Office of the Commissioner, Juneau, Alaska 99802; and the Office of State Programs, Occupational Safety and Health Administration, Room N–3476, 200 Constitution Ave. NW, Washington, DC 20210.

4. *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Alaska State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason:

1. The standard amendment was adopted in accordance with the procedural requirements of State law which included opportunity for public comments and further public participation would be repetitious.

This decision is effective December 5, 1989.

(Sec. 18, Pub. L. 91–596, 84 Stat. 6108 (29 U.S.C. 667)

Signed at Seattle, Washington this 10th day of March, 1989.

James W. Lake,

Regional Administrator.

[FR Doc. 89–28373 Filed 12–4–89; 8:45 am]

BILLING CODE 4510–26–M

Alaska State Standards; Notice of Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR part 1902. On September 28, 1984, notice as published in the **Federal Register** (49 FR 38252) announcing final approval of the State's plan and amending Subpart R of part 1952.

The Alaska plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under Section 6 of the Act. Section 1953.20 provides that where any alteration in the Federal program could have an adverse impact on the at least as effective status of the State program, a program change supplement to a State plan shall be required.

In response to Federal standards changes, the State has submitted by

letter dated January 20, 1987 from Jim Sampson, Commissioner, to James W. Lake, Regional Administrator, and incorporated as part of the plan, State standards amendments comparable to 29 CFR 1910.145(f), Accident Prevention Signs and Tags, as amended and published in the **Federal Register** (51 FR 33260) on September 19, 1986. The State's original standards were published in the **Federal Register** (40 FR 43101) on September 18, 1975. The State's amended standards, AAC 01.1202(f), Accident Prevention Tags, were promulgated after notifications of the State's proposed amendments in the statewide media on October 31, and November 6, 1986 failed to elicit a request for public hearings. The public comment period was open for thirty days by Jim Sampson, Commissioner, under authority vested by AS 19.60.020. The State's standards amendments were adopted on December 9, 1986 with an effective date of January 30, 1987. The State incorporated editorial modifications, including using the State's numbering system and changing the word *shall* to *must*.

In response to a Federal standards change, the state has submitted by letter dated April 7, 1987 from Jim Sampson, Commissioner, to James W. Lake, Regional Administrator, and incorporated as part of the plan, a State standard amendment comparable to 29 CFR 1910.430(e)(1), as amended and published in the **Federal Register** (51 FR 33033) on September 18, 1986. The State's original standard was published in the **Federal Register** (43 FR 57670) on December 8, 1978. This State standard amendment, which is contained in AAC 06.500(e)(1), Commercial Diving Operations, Equipment, was promulgated after notifications were published in the statewide media on December 26, 1986 and January 2, 1987. The public notifications failed to elicit a request for public hearing. The public comment period was open for thirty days by Jim Sampson, Commissioner, under authority vested by AS 19.60.020. The State standard amendment was adopted on February 19, 1987 with an effective date of April 15, 1987. The State incorporated the State's numbering system.

In response to Federal standards changes, the State has submitted by letter dated June 20, 1988 from Jim Sampson, Commissioner, to James W. Lake, Regional Administrator, and incorporated as part of the plan, a State standards amendment comparable to 29 CFR 1910.268(c), subpart R, Telecommunications, amended, as published in the **Federal Register** (52 FR 36387) on September 28, 1987. The State's original standards received **Federal Register** approval (41 FR 52557) on November 30, 1976. The State standards amendment, which is contained in AAC 03.100(e), Telecommunications, was promulgated after public hearings which were held on February 29, and March 1 and 2, 1988. Notifications of the hearings were published in statewide media on January 13, 15, 20, and February 10, 1988. The public comment period was open for thirty days by Jim Sampson, Commissioner, under authority vested by AS 19.60.020. The State incorporated editorial modifications consisting of using the State's numbering system and changing the word *shall* to *must*.

In response to Federal standards changes, the State has submitted by letter dated May 15, 1989 from Tom Stuart, Director, to James W. Lake, Regional Administrator, and incorporated as part of the plan, a State standard amendment comparable to 29 CFR 1926.550(g), Crane or Derrick Suspended Personnel Platforms, as published in the **Federal Register** (53 FR 29139) on August 2, 1988. The State standard amendment, which is contained in AAC 05.140(a), Construction Code, Crane or Derrick Suspended Personnel Platforms, was promulgated after notifications of the State's proposed amendments in the statewide media on December 19, 20, 26, and 27, 1988. The public comment period was open for thirty days by Jim Sampson, Commissioner, under authority vested by AS 19.60.020. Public hearings were held on January 17 through 19, 1989. The State's standard amendment was adopted on February 21, 1989 with an effective date of April 21, 1989. The State incorporated editorial modifications, including using the State's numbering system, changing the word *shall* and *must*, and adding a drawing of a manbasket.

In response to Federal standard changes, the State has submitted by letter dated May 17, 1989 from Tom Stuart, Director, to James W. Lake, Regional Administrator, and incorporated as part of the plan, State standard amendments comparable to 29 CFR 1910.177 (b) and (d)(5), Servicing of Single Piece and Multi-piece Rim Wheels, as amended and published in the **Federal Register** (53 FR 34737) on September 8, 1988. The State's original standards were published in the **Federal Register** (49 FR 32126) on August 10, 1984. The State's amended standards, AAC 01.0810, Servicing of Single Piece and Multi-piece Rim Wheels, were promulgated after notifications of the State's proposed amendments in the statewide media on February 21, and February 28, 1989 failed to elicit a request for public hearings. The public comment period was open for thirty days by Jim Sampson, Commissioner, under authority vested by AS 19.60.020. The State's standard amendments were adopted on March 23, 1989 with an effective date of May 21, 1989. The State incorporated editorial modifications, including using the State's numbering system and changing the word *shall* to *must*.

2. *Decision.* The above State standard amendments have been reviewed and compared with the relevant Federal standards. OSHA has determined that the State standard amendments are at least as effective as the comparable Federal standard amendments, as required by section 18(c)(2) of the Act. OSHA has also determined that the differences between the State and the Federal standards amendments are minimal and that the standard amendments are thus substantially identical. OSHA therefore approves the amendments; however, the right to reconsider this approval is reserved should substantial objections be submitted to the Assistant Secretary.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; State of Alaska, Department of Labor, Office of the Commissioner, Juneau, Alaska 99802; and the Office of State Programs, Occupational Safety and Health Administration, Room N-3476, 200 Constitution Ave. NW., Washington, DC 20210.

4. *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Alaska State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason:

1. The standard amendments were adopted in accordance with the procedural requirements of State law which included opportunity for public comments and further public participation would be repetitious.

This decision is effective December 5, 1989.

(Sec. 18, Pub. L. 91-596, 84 Stat. 6108 [29 U.S.C. 667]).

Signed at Seattle, Washington this 26th day of May, 1989.

Ronald T. Tsunehara,

Acting Regional Administrator.

[FR Doc. 89-28374 Filed 12-4-89; 8:45 am]

BILLING CODE 4510-26-M

Maryland State Standards; Notice of Approval

1. *Background*—Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4), will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On July 5, 1973, notice was published in the **Federal Register** (38 FR 17834) of the approval of the Maryland State plan and the adoption of Subpart O to Part 1952 containing the decision.

The Maryland State Plan provides for the adoption of all Federal standards as State standards after comments and public hearing. Section 1952.210 of Subpart O sets forth the State's schedule for the adoption of Federal standards. By letter dated July 5, 1989, from Commissioner Henry Koellein, Jr., Maryland Division of Labor and Industry, to Linda R. Anku, Regional Administrator, and incorporated as part of the plan, the State submitted a State standard identical to: 29 CFR 1910.1000, Subpart Z, pertaining to an amendment to the Air Contaminants Standards for General Industry as published in the **Federal Register** of January 19, 1989, (54 FR 2920). This standard is contained in COMAR 09.12.31. Maryland Occupational Safety and Health Standard was promulgated after a public hearing on February 8, 1989. This standand was effective on July 10, 1989.

2. *Decision*—Having reviewed the State submissions in comparison with the Federal standards, it has been determined that the State standards are identical to the Federal standards and accordingly are approved.

3. *Location of the Supplements for Inspection and Copying*—A copy of the standards supplements, along with the approved plan, may be inspected and copied at the following locations during normal business hours: Office of the Regional Administrator, 3535 Market Street, Suite 2100, Philadelphia, Pennsylvania 19104; Office of the Commissioner of Labor and Industry, 501 St. Paul Place, Baltimore, Maryland 21202; and the OSHA Office of State Programs, Room N-3476, Third Street and Constitution Avenue, NW., Washington, DC 20210.

4. *Public Participation*—Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Maryland State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

a. The standards are identical to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

b. The standards were adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective December 5, 1989.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667)

Signed at Philadelphia, Pennsylvania, this 13th day of July 1989.

Richard Soltan,

Deputy Regional Administrator.

[FR Doc. 89-28375 Filed 12-4-89; 8:45 am]

BILLING CODE 4510-26-M

Oregon State Standards; Notice of Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR part 1902. On December 28, 1972, notice was published in the **Federal Register** (37 FR 28628) of the approval of the Oregon plan and the adoption of subpart D to part 1952 containing the decision. The Oregon plan provides for adoption of Federal standards as State standards by reference.

In response to Federal standards changes, the State has submitted by letter dated March 3, 1989 from John A. Pompei, Administrator, to James W. Lake, Regional Administrator, and incorporated as part of the plan, a State standard amendment comparable to 29 CFR 1910.20, Access to Employee Exposure and Medical Records, as published in the **Federal Register** (53 FR 38162) on September 29, 1988. The State's rules pertaining to Access to Employee Exposure and Medical Records, contained in OAR 437-02-015, were adopted by reference and became effective on March 1, 1989, pursuant to ORS 654.025(2), ORS 656.726(3), and ORS 183.335, as ordered and transmitted under Oregon APD Administrative Order 3-1989. Concurrently, OAR 437-200, Employee Access to Exposure and Medical Records, which had been approved on May 1, 1981 (46 FR 24750) was repealed by the same Oregon APD Administrative Order. On February 1, 1989, the State mailed the Notice of Proposed Amendment of Rules to those on the Department of Insurance and Finance mailing list, established pursuant to OAR 436-01-000 and to those on the Department's distribution list as their interest appeared. No requests for a public hearing were received.

In response to a Federal standard change, the State submitted by letter dated July 8, 1987 from Darrel D. Douglas, Administrator, Accident Prevention Division, to James W. Lake, Regional Administrator, a standard change comparable to 29 CFR 1910.145(f) amended, Accident Prevention Tags, as published in the **Federal Register** on September 19, 1986 (51 FR 33260). The State's original standard, OAR 437, Chapter 28, Accident Signs, Symbols and Tags, received **Federal Register** approval (41 FR 43485) on November 1, 1976 and was subsequently recodified as OAR 437-Division 54. The State's recodification project received **Federal Register** approval (52 FR 27076) on July 17, 1987. This standard was adopted effective by the State on March 17, 1987 after the Notice of Proposed Amendment of Rules was mailed on February 18, 1987, to those on the Department of Insurance and Finance mailing list established pursuant to OAR 436-01-000 and to those on the Department's distribution mailing list as their interest appeared. The State incorporated editorial modifications, including the State's numbering system,

and changed the heading in 1910.145(8) to "Biological hazard signs and tags." One comment was received and resolved by the State through a letter of clarification to the sender.

2. *Decision.* Having reviewed the State submissions in comparison with the Federal standards, it has been determined that the State standard amendment for Access to Employee Exposure and Medical Records is identical to the Federal standard amendment and that the State's standard amendment for Accident Prevention Tags is at least as effective as the comparable Federal standard amendment, as required by section 18(c)(2) of the Act. OSHA has also determined that the differences between the State and Federal standard amendment for Accident Prevention Tags are minimal and that the standard amendment is thus substantially identical. OSHA therefore approves these standards; however, the right to reconsider this approval for the State standard amendment for Accident Prevention Tags is reserved should substantial objections be submitted to the Assistant Secretary.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Department of Insurance and Finance, Labor and Industries Building, Salem, Oregon 97310; the Office of State Programs, Occupational Safety and Health Administration, Room N–3476, 200 Constitution Avenue NW, Washington, DC 20210.

4. *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Oregon State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards amendments are identical to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standards amendments were adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective December 5, 1989.

(Sec. 18, Pub. L. 91–596, 84 STAT. 6108 [29 U.S.C. 667]).

Signed at Seattle, Washington this 10th day of March, 1989.

James W. Lake,

Regional Administrator.

[FR Doc. 89–28376 Filed 12–4–89; 8:45 am]

BILLING CODE 4510–26–M

Washington State Standards; Notice of Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR part 1902. On January 26, 1973, notice was published in the **Federal Register** (38 FR 2421) of the approval of the Washington plan and the adoption of Subpart F to Part 1952 containing the decision.

The Washington plan provides for the adoption of State standards that are at least as effective as comparable Federal standards promulgated under section 6 of the Act. Section 1953.20 provides that where any alteration in the Federal program could have an adverse impact on the at least as effective as status of the State program, a program change supplement to a State plan shall be required.

In response to Federal standards changes, the State has submitted by letter dated February 23, 1988, from Joseph A. Dear, Director, to James W. Lake, Regional Administrator, and incorporated as part of the plan, a State standard amendment identical to the amended Federal standard at 29 CFR 1910.141(c)(1)(i), General Environmental Controls; Sanitation, Toilet Facilities, as published in the Federal Register (43 FR 49736) on October 24, 1978. The Washington Sanitation, Toilet Facilities amendment is contained in WAC 296–24–12007. It was adopted on November 30, 1987, and became effective on December 30, 1987, pursuant to RCW 34.04.040(2), 49.17.040, 49.17.050, Public Meetings Act RCW 42.30, Administrative Procedures Act RCW 34.04, and the State Register Act RCW 34.08 as ordered and transmitted under Washington Administrative Order number 87–24. The State originally amended its standard in response to the 1978 Federal amendment on November 13, 1980. Its amendment contained significant differences from the Federal amendment but was approved on May 10, 1985 (50 FR 19822). The State is now making one part of its standard identical to the Federal standard at 1910.141(c)(1)(i) by adding a phrase which had been omitted from the footnote to Table B–1.

In response to Federal standards changes, the State has submitted by letter dated September 7, 1984, from Richard E. Martin, Assistant Director, to James W. Lake, Regional Administrator, and incorporated as part of the plan, a State standard amendment comparable to the Federal standard 29 CFR 1910.177, Servicing of Single Piece and Multi-Piece Rim Wheels (Amended), as published in the **Federal Register** (49 FR 4350) on February 3, 1984. The State's amendment replaces, in its entirety, the orginal State standard WAC 296–24–217, Servicing of Multi-Piece Rim Wheels, which received **Federal Register** approval (46 FR 35229) on July 7, 1981. The State standard, which is identical to the Federal standard, is contained in WAC 296–24–217. It was adopted on August 21, 1984, and became effective on September 20, 1984, pursuant to RCW 34.04.040(2), 49.17.040, 47.17.050, Public Meetings Act RCW 42.30, Administrative Procedures Act RCW 34.4, and the State Register Act RCW 34.08 as ordered and transmitted under Washington Administrative Order No. 84–18.

2. *Decision.* Having reviewed the State's submissions in comparison with the Federal standards, it has been determined that the State's standards are identical to the Federal Standards and accordingly are approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Department of Labor and Industries, General Administration Building, Olympia, Washington 98501; and the Office of State Programs, Occupational Safety and Health Administration, Room N–3476, 200 Constitution Ave NW, Washington, DC 20210.

4. *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Washington State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standards were adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective December 5, 1989.

(Sec. 18, Pub. L. 91-596, 84 STAT. 6108 (29 U.S.C. 667).

Signed at Seattle, Washington this 14th day of July, 1989.

James W. Lake,

Regional Administrator.

[FR Doc. 89-28378 Filed 12-4-89; 8:45 am]

BILLING CODE 4510-26-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 89-82]

Intent to Grant a Partially Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant a patent license.

SUMMARY: NASA hereby gives notice of intent to grant Jack Cantwell, Incorporated, of Englewood Cliffs, New Jersey 07632, a partially exclusive, royalty-bearing, revocable license to practice the invention described in U.S. Patent No. 4,080,960, entitled, "An Ultrasonic Technique for Characterizing Skin Burns," which issued to the United States of America, as now represented by the Administrator of the National Aeronautics and Space Administration as provided under 35 U.S.C. 207(a)(2), and a partially exclusive royalty-bearing world-wide revocable license, to practice the invention described and claimed in pending United States Patent Application Serial No. 07/422,726, filed October 17, 1989 (LAR-13,966-1) by the Administrator of the National Aeronautics and Space Administration on behalf of the United States of America. The aforesaid patent and pending patent will be for a limited number of years and will contain appropriate terms, limitations and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR Part 1245, Subpart 2. NASA will negotiate the final terms and conditions and grant the partially exclusive license, unless within 60 days of the Date of this Notice, the Director of Patent Licensing receives written objections to the grant, together with any supporting documentation. The Director of Patent Licensing will review all written responses to the Notice and then recommend to the Associate General Counsel (Intellectual Property) whether to grant the partially exclusive license.

DATE: Comments to this notice must be received by January 30, 1990.

ADDRESSES: National Aeronautics and Space Administration, Code GP, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Harry Lupuloff, (202) 453-2430.

Dated: November 22, 1989.

Gary L. Tesch,

Deputy General Counsel.

[FR Doc. 89-28363 Filed 12-4-89; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL SCIENCE FOUNDATION

Materials Submitted for OMB Review

In accordance with the Paperwork Reduction Act and OMB Guidelines, the National Science Foundation is posting this notice of information collection that will affect the public.

1. *Importance of Education and Human Resources.* One established criterion in NSF's merit review of proposals is the effect of the proposed research on the infrastructure of science and engineering. Reviewers are asked to consider the potential of the proposal to improve the quality, institutional distribution, or effectiveness of the Nation's scientific and engineering research, education, and work force. The NSF is particularly concerned about the development of scientists and engineers for the future. To make this more explicit, Principal Investigators (PI) will now be asked to specify the relationship of the project to the education and development of human resources.

2. *Importance of Quality of Publications in the Merit Review Process.* Evaluation of scientific productivity must emphasize quality of published work rather than quantity. To ensure this emphasis, NSF will now limit the number of publications considered in reviewing a grant application.

Effective Date: This collection of information will become effective January 3,1990, subject to approval by the Office of Management and Budget. Public comments should be submitted to: Herman G. Fleming, Reports Clearance Officer, Rm. 208, National Science Foundation, 1800G Street, NW., Washington, DC 20550, and to: Office of Management and Budget, Paperwork Reduction Project (3145-0058, Washington, DC, 20503. All comments will be available for public inspection in Rm. 208, at the above NSF address between the hours of 9 a.m. and 4 p.m.

Title: Changes in NSF Proposal Format: Importance of Education and Human Resources; and Importance of Quality of Publications in the Merit Review Process.

Affected Public: Any institution/individual submitting a proposal to the National Science Foundation.

Respondents/Burden Hours: 37,000 respondents. NSF estimates that 120 hours are required to submit a proposal. This information collection will not effect the total amount of time required to submit a proposal. While additional information is being requested, some current collection is being deleted.

Changes: (1) Education and Human Resources: A Statement must be included specifying the potential of the proposed research to contribute to the education and the development of human resources in science and engineering at the postdoctoral, graduate, and undergraduate levels. This statement may include, but is not limited to, the role of the research in student training, course preparation, and seminars, particularly for undergraduates. Special effectiveness or achievement in the area of producing professional scientists and engineers from groups presently underrepresented should be described. 2) A complete list of publications for the past five years is no longer required. Biographical Sketches, in addition to data on educational background and career, must now include the following: a) a list of up to five publications most relevant to the research proposed and up to five other significant research publications. Patents, copyrights, or software systems developed may be substituted for publications. These publications may overlap the continuing requirement for a list of all publications resulting from citing prior NSF support. Only the list of ten will be used in merit review. b) a list of the names of graduate students with whom the PI has had an association as thesis advisor and postdoctoral scholars

sponsored by the PI over the past five years, with a summary of the total numbers of graduate students advised and postdoctoral scholars sponsored. and 3) to avoid potential conflicts of interest in merit review, a list of scientists with whom the investigator has had a long-term association and/or with whom he/she has collaborated on a project or a book, article, report or paper within the last 48 months; and the investigator's own postdoctoral advisors.

Dated: November 29, 1989

Herman G. Fleming,

NSF Reports Clearance Officer.

[FR Doc. 89-28309 Filed 12-4-89; 8:45 am]

BILLING CODE 7555-01-M

Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for the Applications of Advanced Technologies, Science and Engineering Education.

Date and time: December 17, 1989 from 8:00 a.m. to 6:00 p.m.

Place: Harvard-Smithsonian Center, Cambridge, MA.

Type of meeting: Closed.

Contact person: Dr. Andrew R. Molnar, Applications of Advanced Technologies, National Science Foundation, Room 635A, 1800 G Street NW., Washington, DC 20550, (202) 357-7064.

Minutes: May be obtained from the Contact Person at the above address.

Purpose of Meeting: To provide advice and recommendations concerning support for research.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are within exemption (4) and (6) of 5 U.S.C. 552 b (c), Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 89-28310 Filed 12-4-89; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee on Containment Systems; Meeting

The ACRS Subcommittee on Containment Systems will hold a meeting on December 12, 1989, Room P-110, 7920 Norfolk Avenue, Bethesda, MD

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows: Tuesday, December 12, 1989—1:00 p.m. until the conclusion of business.

The Subcommittee will discuss the NCR staff's document on the Containment Performance Improvements (CIP) Program (all containment types other than the BWR Mark I).

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of the consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Dean Houston (telephone 301/492-9521) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: November 27, 1989.

Gary R. Quittschreiber,

Chief Project Review Branch No. 2.

[FR Doc. 89-28306 Filed 12-4-89; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Joint Subcommittees on Containment Systems, and Structural Engineering; Meeting

The ACRS Subcommittees on Containment Systems and Structural Engineering will hold a joint meeting on December 13, 1989, Room P-110, 7920 Norfolk Avenue, Bethesda, MD

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows: *Wednesday, December 13, 1989—8:30 a.m. until the conclusion of business.*

The Subcommittees will continue to discuss containment design criteria for future plants with invited speakers from industry, national laboratories and NRC staff.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittees, their consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittees, along with any of the consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittees will then hear presentations by and hold discussions with invited speakers as noted above.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Dean Houston (telephone 301/492-9521) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: November 27, 1989.

Gary R. Quittschreiber,

Chief Project Review Branch No. 2.

[FR Doc. 89-28307 Filed 12-4-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-250 and 50-251]

Florida Power and Light Co.; Consideration of Issuance of Amendments to Facility Operating Licenses and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses No. DPR-31 and DPR-41, issued to Florida Power and Light Company (FPL, the licensee), for operation of the Turkey Point Nuclear Power Plant, Units 3 and 4, located in Dade County, Florida.

The amendments, requested by the licensee by letter of June 5, 1989, as supplemented November 3, 1989, would replace the current custom Technical Specifications (TS) licensed in the early 1970's with a set of TS based on the Westinghouse Standard Technical Specifications (STS). This is compatible with the NRC and industry initiative to standardize and improve TS.

The changes in the TS can be grouped into 4 categories: non-technical changes, more stringent requirements, relocation of selected requirements to other controlled documents, and relaxations of existing requirements.

Non-technical changes are intended to make the TS easier to use for plant operations personnel.

More stringent requirements are either more conservative than corresponding requirements in the current TS, or are additional restrictions which are not in the current TS. The more stringent requirements provide a safety enhancement.

Relocation of selected requirements involves items that are currently in the TS that meet the criteria set forth in staff guidance provided as a part of the Commission's Technical Specification Improvement Program. These items may be removed from the TS and placed in some other controlled document. Once these items have been relocated, the licensee generally would be able to revise them under the provisions of 10 CFR 50.59 without a license amendment.

The relaxation of existing requirements is based on operating experience. When restrictions are shown to provide little or no safety benefit, and place a burden on the licensee, their removal from the TS may be justified. In most cases, the relaxations have been incorporated in the STS or have previously been granted to individual plants on a plant-specific basis.

For further details regarding the proposed changes in the TS, see the application for amendment dated June 5 and November 3, 1989, which is available in the Local Public Document Room and the Commission's Public Document Room.

Prior to issuance of the proposed license amendments, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By January 4, 1990, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714, which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Local Public Document Room located in the Environmental and Urban Affairs Library, Florida International University, Miami, Florida, 33199. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted, with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which the petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first pre-hearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petition shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties on the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptiy so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator

should be given Datagram Identification Number 3737 and the following message addressed to Herbert N. Berkow, Director, Project Directorate II–2: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Harold F. Reis, Esquire, Newman and Holtzer, P.C., 1615 L Street, NW., Washington, DC 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer, or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

If a request for a hearing is received, the Commission's staff may issue the amendments after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards considerations in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated June 5, 1989, as supplemented November 3, 1989, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555, and at the Local Public Document Room, Environmental and Urban Affairs Library, Florida International University, Miami, Florida, 33199.

Dated at Rockville, Maryland, this 29th day of November 1989.

For the Nuclear Regulatory Commission.

Herbert N. Berkow,

Director, Project Directorate II–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 89–28359 Filed 12–4–89; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–443–OL and 50–444–OL (Offsite Emergency Planning)]

Public Service Company of New Hampshire (Seabrook Station, Units 1 and 2; Appointment of Adjudicatory Employee

Commissioners: Kenneth M. Carr, Chairman, Thomas M. Roberts, Kenneth C. Rogers, James R. Curtiss.

In accord with the requirements of 10 CFR 2.4, notice is hereby given that Thomas J. Ploski, a Commission employee in Region III, Division of Radiation Safety and Safeguards, has been appointed as a Commission adjudicatory employee within the meaning of § 2.4 to advise the Commission on issuer in the above-captioned proceeding related to consideration of emergency planning requirements.

Mr. Ploski has not been engaged in the performance of any investigative or litigating function in connection with the Seabrook facility or in any factually-related proceeding.

Until such time as a final decision is issued, interested persons outside the agency and agency employees performing investigation or litigating functions in the Seabrook operating license proceeding are required to observe the restrictions of 10 CFR 2.780 and 2.781 in their communications with Mr. Ploski.

It is so ordered.

Dated at Rockville, Maryland this 29th day of November, 1989.

For the Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 89–28358 Filed 12–4–89; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–266 and 50–301]

Wisconsin Electric Power Co., Point Beach Nuclear Plant, Unit Nos. 1 and 2; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR–24 and DPR–27, issued to the Wisconsin Electric Power Company (the licensee), for operation of the Point Beach Nuclear Plant, Unit Nos. 1 and 2 located in Manitowoc County, Wisconsin.

The proposed amendments would revise provisions of the Point Beach Nuclear Plant, Unit Nos. 1 and 2, Technical Specifications (TS) relating to the permissible heatup and cooldown curves. The heatup and cooldown limitation curves have been revised to be applicable through 18.1 effective full power years. Further, the technical specifications have been simplified by taking the most limiting set of curves derived for either Unit 1 or Unit 2 and making that set applicable to both units. The proposed changes are necessary to provide an acceptable operating range of pressures and temperatures to protect the reactor vessels against non-ductible failure. These curves need to be revised periodically to account for changes in reactor vessel materials characteristics due to neutron embrittlement. Specifically, the proposed amendments would replace TS figures 15.3.1–1 and 15.3.1–2 with revised heatup and cooldown curves applicable to both units. Technical Specification figures 15.3.1–3 and 15.3.1–4, applicable to Unit 2 only, would be deleted. Technical Specification references to these figures in TSs 15.3.1.B.1, 15.3.1.B.4, 15.3.1.F.3, and 15.3.15.A.1 would be changed to reflect the use of only one set of heatup and cooldown limit curves for both units. The Basis section for TS 15.3.1.B would also be changed both to reflect the use of only one set of heatup and cooldown curves and to reflect revised methodology for how these curves are calculated. Finally, the Basis section for TS 15.3.1.F would be revised to correct a reference from 10 CFR Part 50, Appendix G, Section IV.A.2.c to Section IV.A.3.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination is provided below.

The proposed changes would not involve a significant increase in the probablity or consequences of an accident previously evaluated. The proposed heatup and cooldown curves were calculated using the most limiting reactor vessel weld material and neutron fluence information from either unit as input to NRC accepted methodolgy delineated in Regulatory Guide 1.99, Revision 2. The underlying purpose of these curves remains unchanged, i.e. to define an acceptable operating range of pressures and temperatures to protect the reactor vessels against non-ductile failure. The proposed amendments would not create

the possibility of a new or different kind of accident from any accident previously evaluated since the amendments would not result in any physical changes either to plant equipment or procedures. Finally, the proposed amendments would not involve a significant reduction in a margin of safety for the same reasons discussed above under the probability or consequences of an accident previously evaluated. Indeed, the purpose of these changes is to preserve that margin of safety by altering the heatup and cooldown curves to account for the change in reactor vessel materials properties due to neutron embrittlement. No other safety margins are affected.

Therefore, based on the above considerations, the Commission has made a proposed determination that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By January 5, 1990, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at the Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects

that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW. Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1 (800) 325–6000 (in Missouri 1, (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John N. Hannon: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Gerald Charnoff, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request, should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated August 3, 1989, as amended October 3, 1989, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW. Washington, DC 20555, and at the Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

Dated at Rockville, Maryland, this 28th day of November 1989.

For the Nuclear Regulatory Commission.

John N. Hannon,

Director, Project Directorate III–3, Division of Reactor Projects—III, IV, V and Special Projects Office of Nuclear Reactor Regulation.

[FR Doc. 89–28360 Filed 12–4–89; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34–27481; File No. SR–CSE–89–6]

Self-Regulatory Organizations; Proposed Rule Change by the Cincinnati Stock Exchange Relating to Compliance With Surveillance Data Requests

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 November 13, 1989, the Cincinnati Stock Exchange ("CSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rules 4.2 and 8.14 of Chapters IV and VII, respectively, of the Exchange Rules of the Board of Trustees to provide for the timely submission of surveillance data requests.

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 and is set forth in Sections A, B and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The CSE proposes to make the following changes to the Exchange Rules of the board of Trustees:

Rule 4.2. The Exchange proposes to prescribe certain time limits within which members will be required to respond to Exchange requests for trading data.[1]

[1] The Exchange proposes the following time frames for compliance with Exchange data requests:

1st Request—10 business days
2nd Request—5 business days
3rd Request—5 business days

The third request letter will be sent to the Member's Compliance Officerf and/or Senior Officer.

Rule 8.14. The Exchange seeks to impose fines on membes who fail to comply with specified time periods in submitting responses to Exchange requests for trading data.[2]

The purpose of the proposed rule change is to extend the Exchange's minor rule disciplinary plan [3] to members who fail to comply promptly with surveillance requests for information in connection with any investigation within the Exchange's disciplinary jurisdiction. The proposed rule change is similar to others filed by various self-regulatory organizations [4] and is in keeping with an Intermarket Surveillance Group and Commission initiative to encourage firms to submit, in an automated format, customer and proprietary trading data that the Exchange may routinely request in connection with surveillance inquiries.

The Exchange intends to utilize the present fine schedule set out in Rule 8.14 for those firms that do not comply with the timely submission requirements. The Exchange believes the proposed rules will expedite investigations and provide for immediate discipline of members who fail to respond in a timely fashion to information requests.

The statutory basis for the proposed rule change is Section 6(b) (1) of the Act

[2] The Exchange proposes to make the following fines, enumerated under Rule 8.14, applicable to members who fail to comply with the time frames prescribed in Rule 4.2:

Fine amount	Individual	Member organization
First time fined	$100	$500
* Second time fined	300	1,000
* Third time fined	500	2,500

* Within a "rolling" 12-month period.

[3] *See* Securities Exchange Act Release No. 26053 (September 1, 1988), 53 FR 34851 (September 8, 1988) (order approving the Cincinnati Stock Exchange's proposal to establish a minor rule violation enforcement and reporting plan). *See also,* Securities Exchange Act Release No. 21013 (June 1, 1984), 49 FR 23828 (June 8, 1984), wherein the Commission adopted amendments to paragraph (c) of Rule 19d–1 to allow self-regulatory organizations to submit, for Commisson approval, plans for the abbreviated reporting of minor rule violations. Under the amendments, any disciplinary action taken by the SRO for violation of an SRO rule that has been designated a minor rule violation pursuant to the plan shall not be considered "final" for purposes of Section 19(d)(1) of the Act if the sanction imposed consists of a fine not exceeding $2,500 and the sanctioned person has not sought an adjudication, including a hearing, or otherwise exhausted his or her administrative remedies.

[4] *See e.g.,* Securities Exchange Release No. 26737 (April 17, 1989), 54 FR 16438–I (April 24, 1989) (approval of Boston Stock Exchange minor rule violation enforcement and reporting plan). *See also,* New York Stock Exchange Rule 476A regarding imposition of fines for minor rule violations.

because it will facilitate the enforcement by the Exchange of compliance with the provisions of the Act, and the rules and regulations thereunder, by requiring members to comply promptly with information requests made by the Exchange.

Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited or received.

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 Commision may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self—regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., 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 CSE. All submissions should refer to File No. SR-CSE-89-6 and should be submitted by December 26, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: November 28, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-28365 Filed 12-04-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-27471; File No. SR-PSE-89-21]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to the Narrowing of Certain Options Bid/Ask Differentials

On August 15, 1989, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] a proposed rule change to narrow the bid-ask differential for certain options quotations and modify the permissible bid-ask differential provisions for stock options that are in-the-money.

The proposed rule change was published for comment in Securities Exchange Act Release No. 27223 (September 6, 1989), 54 FR 37860 (September 13, 1989). No comments were received on the proposed rule change.

Currently, Exchange rules provide for a maximum differential of ¼ of $1 between the bid and the offer for each option contract for which the bid is $1 or less, a maximum differential of ⅜ of $1 where the bid is more than $1 but does not exceed $5, a maximum differential of ½ of $1 where the bid is more than $5 but does not exceed $10, a maximum differential of ¾ of $1 where the bid is more than $10 but does not exceed $20, and a maximum differential of $1 when the last bid is 20⅛ or more.

The current proposal provides for a maximum bid-ask differential of ¼ of $1 for each option contract for which the bid is less than $2. Each option contract for which the bid is $2 or more, but less than $5, will be subject to a maximum price differential of ⅜ of $1.[3] The current proposal also provides that, for in-the-money options, the bid-ask differential in the underlying security is greater than the bid-ask differential set forth in Exchange Rule VI, Section 79, then the permissible bid-ask differential may be identical to those in the underlying security market.

The Exchange believes that the proposed rule change is designed to promote just and equitable principals of trade and protect the investing public.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6.[4] Specifically, with regard to narrowing the maximum allowable bid-ask differential, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act in that it will perfect the mechanism of a free and open market by providing improved price continuity and tighter, more liquid markets to public investors. The Commission believes that all orders, including public customer orders, will benefit from the narrower bid-ask differentials.

The Commission also believes that, in light of the narrower bid-ask differentials, it is reasonable to permit in-the-money options quotations to reflect the market conditions of the underlying securities, even though such a rule may increase the instances where a narrower bid-ask differential will be bypassed. In this regard, the Commission previously has permitted quotations for in-the-money options to be identical to spreads in the underlying market.[5] In addition, the Commission believes that this exemption from the bid-ask differential requirements will occur only in rare circumstances, and, as a result, will have a minimal impact on the market. Moreover, in many of these occurrences, the narrowing of the permissible spread by the proposed rule change will make the maximum differential tighter than the spread in the underlying stock. The use of the underlying stock spread in these instances only would occur because of the tighter minimum option spread differential.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[6] that the

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1989).

[3] Therefore, the effect of the proposal is to narrow the maximum allowable bid-ask spread from ⅜ of $1 to ¼ of $1, for option contracts bid at between $1 and less than $2.

[4] 15 U.S.C. 78f (1982).

[5] *See,* Securities Exchange Act Release Nos. 27235 (September 11, 1989), 54 FR 38580 (September 19, 1989) and 26924 (June 21, 1989), 54 FR 26284 (June 22, 1989).

[6] 15 U.S.C. 78s(b)(2) (1982).

proposed rule change (SR–PSE–89–21) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Dated: November 24, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–28332 Filed 12–4–89; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Order to Show Cause; Mall/Business Express Canadian Commuter Route Transfer

AGENCY: Office of the Secretary, DOT.

ACTION: Order 89–11–60, statement of tentative findings and conclusions and order to show cause, undocketed.

SUMMARY: By Order 89–11–60, the Department proposes to transfer the authority of Mall Airways, Inc. to serve eight U.S.-Canada transborder markets to Business to Business Express, Inc. The transferred authorities would be effective for five-year period from the date of a final order transferring the authority. The Department is also granting the petition of Presidential Airways, Inc. for review of staff action, taken February 3, 1989, and on review, affirms the staff's decision to allow Mall to retain its authority to serve the Dulles-Toronto market.

DATES: Comments on, or objections to, the Department's tentative findings and conclusions are due December 3, 1989. Answers are due not later than December 11, 1989.

ADDRESS: Comments and objections should be filed with the Licensing Division, P–45, Office of International Aviation, Department of Transportation, 400 7th Street SW., Washington, DC 20590 and served upon all persons listed in ordering paragraph 7 of Order 89–11–60.

Dated: November 29, 1989.

Jeffrey N. Shane,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 89–28330 Filed 12–4–89; 8:45 am]

BILLING CODE 4910–62–M

[7] 17 CFR 200.30–3(a)(12) (1989).

Federal Highway Administration

Environmental Impact Statement: Guilford County, NC

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway in Guildford County, North Carolina.

FOR FURTHER INFORMATION CONTACT: Robert L. Lee, District Engineer, Federal Highway Administration, P.O. Box 26806, Raleigh, North Carolina 27611, Telephone (919) 790–2856.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the North Carolina Department of Transportation (NCDOT), will prepare an environmental impact statement (EIS) on a proposed I–85 Greensboro Bypass in Guilford County. The proposed action would be the construction of a new 14-mile, multi-lane, divided facility from I–85 in the east, between Mt. Hope Church Road (SR–2045) and McConnell Road (SR–3000), to I–85 in the south between Groometown Road (SR–1129) and Holden Road (SR–1117). This facility will be access controlled. The thoroughfare plan for Greensboro and Guilford County includes the I–85 Greensboro Bypass. The proposed project is needed to serve the existing and anticipated future traffic demand and to relieve congestion, delay and inconvenience to users desiring alternate routes.

Alternates under consideration include (1) the "no-build," (2) improving existing facilities, and (3) controlled access highway on a new location.

A complete public involvement plan has been prepared. Letters describing the proposed action and soliciting comments are being sent to appropriate Federal, State and local agencies. Newsletters will be prepared and distributed. Public meetings and meetings with local officials and neighborhood groups will be held in the study area. Public hearings will also be held. Information on the time and place of the public hearings will be provided in the local news media. The draft EIS will be available for public and agency review and comment at the time of the corridor hearing. No formal scoping meeting is planned at this time.

To ensure that the full range of issues related to the proposed action are addressed, and all significant issues identified, comments and suggestions are invited from all interested parties. Comments and questions concerning the proposed action should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Robert L. Lee,

District Engineer, Raleigh, North Carolina.

[FR Doc. 89–28362 Filed 12–4–89; 8:45 am]

BILLING CODE 4910–22–M

Federal Railroad Administration

[Docket No. RST–83–1]

Petition for Exemption or Waiver of Compliance; National Railroad Passenger Corp.

The National Railroad Passenger Corporation (Amtrak) submitted a petition to the Federal Railroad Administration (FRA), Docket Number RST–83–1, for a waiver of the requirements of 49 CFR 213.57(b) in the operation of passenger train service between Washington, DC and New York City. The details of this petition are set forth in the Federal Register, Volume 54, Number 125, Friday, June 30, 1989, pages 27790 and 27791.

Notice is hereby given, in accordance with the provisions conained in 49 CFR 211.51, that FRA, in order to more fully consider this petition, requested Amtrak to operate a test train between the two cities for the purpose of evaluating passenger ride quality at curving speeds producing four inches of cant deficiency. A single round trip is contemplated with the consist of the non-revenue test train being limited to a locomotive, a spacer car and the Amtrak instrumented track measuring car, No. 10002. This test is to be concluded by December 1, 1989.

FRA responded promptly to the Amtrak petition, one step being the granting of a temporary waiver of compliance with 49 CFR 213.57(b) in order to conduct this test. This temporary waiver was granted with the understanding that FRA's decision would be reviewed in the light of any public comments received in response to this public notice. The decision to grant a temporary waiver, prior to receipt and consideration of public comment, was based on the determination that immediate action was required in the public interest.

On the subject of this test, FRA is seeking information and comments of all interested parties. As noted, FRA intends to review its decision to conduct

this test in the light of these comments. In addition, FRA will take these comments into account in assessing future Amtrak test programs. All interested parties are invited to participate in this proceeding through written submissions. FRA does not anticipate scheduling an opportunity for oral comment because the facts do not appear to warrant it. An opportunity to present oral comments will be provided, however, if, by January 18, 1990, the party submits a written request for hearing that demonstrates that his or her position cannot be properly represented by written statements.

All written communications concerning this test should reference "FRA General Docket No. RST–83–1" and should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, FRA, 400 7th Street SW., Washington, DC 20590.

Comments received by January 18, 1990, will be considered in this proceeding and in evaluating any future tests of a similar nature. All comments received will be available for examination by interested persons at any time during regular working hours (9 a.m.–5 p.m.) in Room 8201, Nassif Building, 400 7th Street SW., Washington, DC 20590.

Issued in Washington, DC on November 28, 1989.

Philip Olekszyk,

Deputy Associate Administrator for Safety.

[FR Doc. 89–28327 Filed 12–4–89; 8:45 am]

BILLING CODE 4910–06–M

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 the National Highway Traffic Safety Administration ("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. Mark L. Goodson submitted a petition dated June 19, 1989, requesting that formal steps be taken to recall all vehicles that use the "window shade" type shoulder harness assembly (those equipped with tension relievers). He also requested that Federal Motor Vehicle Safety Standard (FMVSS) 209 be amended to forbid the use of this type of shoulder harness assembly. This notice deals with Mr. Goodson's petition for a recall of vehicles equipped with tension relievers. The question of initiating rulemaking to forbid prospectively manufacturers from equipping vehicles with these devices will be dealt within a separate notice. It should be noted that the issue of whether to amend a safety standard prospectively is separate from the issue of whether existing vehicles that would not comply with the proposed amended standard contain a safety-related defect.

In support of his petition, Mr. Goodson stated that (1) the window shade type shoulder harness allows intentional and unintentional slack to be introduced into the shoulder belt, and that (2) he has investigated many instances in which the shoulder belt slack was a factor that influenced the level and types of injuries sustained in motor vehicle accidents. Mr. Goodson refers to a fatal accident report in which his findings and those of the County Medical Examiner's Office in Dallas, Texas, imply that the presence of the window shade type shoulder harness was a contributing factor in the fatality. Mr. Goodson stated that the crash should have been easily survivable had it not been for the presence of the window shade type relief device.

Tension relievers have been permitted by FMVSS 208, 49 CFR 571.208, since 1974 and the issues raised by Mr. Goodson have been considered subsequently. For example, in an April 1985 proposed rule, the agency noted that the effectiveness of a safety belt system could be reduced if excessive slack were introduced into the belt. However, the agency also recognized that a belt system must be used to be effective at all; and concluded that "the added potential to improve belt fit and the added comfort of these devices is desirable in certain circumstances, since it could operate to enhance proper belt use." 50 FR 14580, 14582 (April 12, 1985).

NHTSA reiterated this view when it finalized the April proposal: Allowing manufacturers to install tension relieving devices makes it possible for an occupant to introduce a small amount of slack to relieve shoulder belt pressure or to divert the belt away from the neck. As a result, safety belt use is promoted. This factor could outweigh any loss in effectiveness due to the introduction of a recommended amount of slack in normal use. 50 FR 46056, 46059 (November 6, 1985)

The petition requests NHTSA to order manufacturers to provide notification and remedy of a safety-related defect. Since these devices have been used widely over the past 15 years and the agency has explicitly permitted their use, there is no reasonable possibility that such an order would be issued at the conclusion of an investigation into this issue. Further commitment of resources to pursue the question is not 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: November 29, 1989.

George L. Parker,

Associate Administrator for Enforcement.

[FR Doc. 89–28328 Filed 12–4–89; 8:45 am]

BILLING CODE 4910–59–M

Urban Mass Transportation Administration

Intent To Prepare Environmental Impact Statement on Alternative Transit and Highway Improvements in the Portland Metropolitan Area, (Multnomah and Washington Counties), OR.

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The Urban Mass Transportation Administration (UMTA) and the Tri-County Metropolitan Transportation District of Oregon (Tri-Met) are undertaking the preparation of a Supplemental Draft Environmental Impact Statement (SDEIS) for transit and highway improvements in the Westside Corridor of the Portland metropolitan region. The SDEIS will be prepared in cooperation with the Federal Highway Administration (FHWA) and the Oregon Department of Transportation(ODOT). A draft environmental impact statement was prepared in 1982 documenting the impacts of a range of transit alternatives in the Westside Corridor. This SDEIS will update the documented environmental impacts and mitigation for the Westside Light Rail Transit (LRT) alignment and analyze additional options currently being considered for segments of the alignment. These options include long and short tunnels as discussed below. The SDEIS will also update to current conditions No-Build and Transportation Systems Management (TSM) alternatives for an analysis of the LRT Alternatives' transportation benefits, costs, cost-effectiveness and environmental impacts. The SDEIS will also include highway improvements in the Westside Corridor and this SDEIS will serve as the original environmental analysis for several of the highway improvements as they were not included in the 1982 Draft Environmental Impact Statement.

The EIS is being prepared in conformance with 40 CFR part 1500,

Council on Evnironmental Quality, Regulations for Implementing the Procedural Requirements of the National Environmental Policy Act of 1969 as amended; and 49 CFR Part 622, Federal Highway Administration and Urban Mass Transportation Administration, Environmental Impact and Related Procedures.

FOR FURTHER INFORMATION CONTACT: Patricia Levine, Urban Mass Transportation Administration, Region 10, 915 2nd Ave. Seattle, WA. 98174 (206) 442-4210, or Ron Higbee, Tri-Met, 115 NW 1st Avenue, Suite 500, Portland, OR 97209, (503) 273-4322.

SUPPLEMENTARY INFORMATION:

Corridor Description

The Westside Corridor is a major travel corridor which includes the central business districts of the cities of Portland and Beaverton and extends westward into Washington County. The corridor parallels on Sunset Highway (US 26), Highway 217 and the Burlington Northern (BN) Railroad. Its boundaries are approximately the Willamette River to the east, 185th Ave. to the West, the West Hills and Forest Park to the north and Beaverton Hillsdale and TV Highways to the south.

Alternatives

Transit Alternatives:

1. A No-Build Alternative will serve as a baseline condition against which to evaluate the environmental impacts of the TSM and LRT Alternatives. The No-Build alternative defines the year 2005 consequences of only modest increases of transit system capacity and no expansion of system coverage over today. The No-Build Alternative is constrained by anticipated revenue generated by Tri-Met's current revenue sources. The Westside Corridor transit system would consist of buses and operate much like today, however, in a more congested traffic environment. Current peak hour bus lines would be upgraded to all day service, and a new transit center and park-and-ride lots would be added at the interchange between US 26 and Highway 217.

2. A Transportation Systems Management (TSM) Alternative consists of a package of low to moderate cost improvements designed to make efficient use of the existing bus and highway system. The TSM alternative also provides a basis for evaluating the cost-effectiveness of the Westside LRT Alternatives. Unconstrained by Tri-Met's existing revenue sources, the TSM proposes a significant increase in Westside Corridor bus service comparable to the service expansion proposed in the Westside LTR Alternative. Both bus service levels and coverage are enhanced. Limited stop, trunk line bus service to downtown Portland during peak hours is greatly enhanced over the No-Build Alternative. A new transit center at Tanasbourne and additional park-and-ride lots along T.V. highway would be included. Bus priority measures to speed the flow of trunk line buses are added at intersections along T.V. Highway and Canyon Road. Bus stop facilities are added to US 26 interchanges from Cornell/158th east to the Zoo Interchange.

3. The Westside LRT Alternatives provide a twelve-mile long light rail line, generally separated from all traffic, in place of the bus trunk lines operating in mixed traffic proposed in the TSM Alternative. The Westside LRT line would connect with the Banfield LRT line in downtown Portland. The aim is to have through operation of light rail trains between the Westside and Eastside of the metropolitan area. Feeder bus service is virtually identical to the TSM Alternative feeder bus service. Additionally, the LRT alternatives propose 13 light rail stations and five park-and-ride lots. The SDEIS will examine termni of the light rail line at the Sunset Transit Center (intersection of Sunset Highway and Highway 217), Murray Boulevard as well as 185th Avenue.

As stated above, the SDEIS will evaluate options to the Westside LRT alignment adopted in 1983. Alignment options being considered for two segments—Sunset Canyon/West Hills and Central Beaverton—are as follows:

1. Sunset Canyon/West Hills, segment (Vista Bridge to Sunset Highway/ Highway 217 Interchange)

a. (1983 adopted) South Side Surface Alignment

b. North Side Short Tunnel/Surface Option

c. Long Tunnel with and without Zoo and/or Sylvan stations.

2. Central Beaverton segment (Highway 217 at Center Street to Murray Boulevard via the existing Beaverton Transit Center)

a. 1983 adopted alignment along Golf Creek, the southside of Beaverton Transit Center, Beaverdam Road, and the Burlington Northern (BN) Railroad.

b. East of Beaverton Transit Center the option is north of the 1983 alignment, roughly midway between Golf Creek and Center Street, running by the north side of Beaverton Transit Center. West of the Transit Center the option traverses south of the 1983 alignment to follow a short segment of Henry Street and then curves north to rejoin the BN Railroad right-of-way at Murray Boulevard.

Highway Alternatives

1. No Build. No highway improvements would be constructed.

2. Build. A series of highway interchange and lane addition improvements to US 26 and Highway 217 between the Zoo Interchange and the T.V. Highway Interchange in Beaverton are included in both the TSM and LRT alternatives. These improvements will correct existing highway design deficiencies, improve highway operating safety, smooth traffic flow west of the Sylvan Interchange, and balance eastbound and westbound capacity east of Sylvan Interchange. However, these improvements will *not* increase highway capacity through the Vista Ridge Tunnels or on SW. Jefferson Street into downtown Portland; consistent with Portland's Regional Transportation Plan. (RTP). The specific improvements are as follows:

a. Sunset Highway Westbound Truck climbing Lane extension from the Zoo Interchange to the Canyon Road off ramp;

b. Westbound on-ramp to Sunset Highway at the Zoo Interchange;

c. Sylvan/Canyon/Cemetery Interchange; Collector-distributor Road Improvements.

d. Sunset Highway widening from four to six lanes between the Canyon Road exit/entrance and the Highway 217 Interchange;

e. Sunset Highway/Highway 217 Interchange improvements to match the approach highway widening and increase ramp capacity;

f. Highway 217 Widening from four to six through lanes between the Sunset Highway Interchange and the (Canyon Road) T.V. Highway Interchange.

g. Ramp metering of all eastbound on ramps along 217 and Sunset Highway in the Corridor;

Probable Effects

Impacts proposed for analysis include changes in the natural environment (air quality, noise, water quality, aesthetics land slide potential), changes in the social environment (land use, development, neighborhoods), impacts on parklands and historic sites, changes in transit service and patronage, associated changes in highway congestion on main highways and near transit stations and park and ride lots, capital costs, operating and maintenance costs, and financial implications. Impacts will be identified both for the construction period and for

the long term operation of the alternatives.

The proposed evaluation criteria include transportation, environmental, social, economic, and cost effectiveness and financial measures as required by current Federal (NEPA), State and local environmental laws and current CEQ and UMTA guidelines. Mitigating measures will be explored for any adverse impacts that are identified.

Comments

A public meeting will be held, if requested by interested citizens or agencies, to discuss the range of alternatives and impacts to be addressed in the SDEIS. A request for a meeting should be made to Terry L. Ebersole, Regional Manager, Suite 3142, Urban Mass Transportation Administration, 915 2nd Ave., Seattle, WA 98174 within thirty days of the date of this Notice. In addition comments may be submitted in writing to Terry L. Ebersole, Regional Manager. Comments should address the alternatives to be considered, impacts to be addressed, and scope of the SDEIS.

Louis F. Mraz, Jr.,

Acting Western Area Director.

[FR Doc. 89-28329 Filed 12-4-89; 8:45 am]

BILLING CODE 4910-57-M

Sunshine Act Meetings

Federal Register
Vol. 54, No. 232
Tuesday, December 5, 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).

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:12 p.m. on Wednesday, November 29, 1989, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider: (1) The application of Babcock & Brown, a proposed new bank to be located at 1747 Pennsylvania Avenue, NW., Washington, DC, for Federal deposit insurance; (2) matters relating to an assistance agreement pursuant to section 13(c) of the Federal Deposit Insurance Act; and (3) personnel matters.

In calling the meeting, the Board determined, on motion of Director C. C. Hope, Jr. (Appointive), seconded by Director M. Danny Wall (Director of the Office of Thrift Supervision), concurred in by Director Robert L. Clarke (Comptroller of the Currency), and Chairman L. William Seidman, 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), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C.552b(c)(2), (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii)).

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: November 30, 1989.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 89-28481 Filed 12-1-89; 2:06 pm]

BILLING CODE 6714-01-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10:30 a.m., Wednesday, December 6, 1989.

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument on the following:

1 *Secretary of Labor on behalf of Price and Vacha; and United Mine Workers of America v. Jim Walter Resources, Inc.*, Docket No. SE 87-128-D. (Issues include whether the administrative law judge erred in finding that the operator unlawfully discriminated against complainants.)

Any person intending to attend this hearing who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR § 2706.150(a)(3) and § 2706.160(e).

TIME AND DATE: Immediately following Oral Argument.

STATUS: Closed [Pursuant to 5 U.S.C. 552b(c)(10)].

MATTERS TO BE CONSIDERED: The Commission will consider the following:

1. *Secretary of Labor on behalf of Price & Vacha, etc. v. Jim Walter Resources, Inc.*, SE 87-128-D. (see oral argument listing)

It was determined by a unanimous vote of Commissioners that this item be considered in closed session.

CONTACT PERSON FOR MORE INFO: Jean Ellen (202) 653-5629 / (202) 708-9300 for TDD Relay.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 89-28451 Filed 12-1-89; 11:16 am]

BILLING CODE 6735-01-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of December 4, 11, 18, and 25, 1989.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of December 4

Tuesday, December 5

11:30 a.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of December 11—Tentative

Thursday, December 14

10:00 a.m.

Briefing on Status of Implementation of the Severe Accident Master Integration Plan and Status of Licensee Progress on IPE (Public Meeting)

3:30 p.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of December 18—Tentative

Tuesday, December 19

10:00 a.m.

Briefing on Risk Communication (Public Meeting)

Wednesday, December 20

2:00 p.m.

Briefing by DOE on Status of Civilian High Level Waste Program (Public Meeting)

Thursday, December 21

2:00 p.m.

Briefing on NRC Actions for Cleanup of Contaminated Sites Under NRC Jurisdiction (Public Meeting)

3:30 p.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

Friday, December 22

10:00 a.m.

Briefing by Executive Branch (Closed—Ex. 1)

Week of December 25—Tentative

There are no Commission meetings scheduled for the Week of December 25.

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To verify the status of meetings call (recording)—(301) 492-0292

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 492-1661.

Dated: November 30, 1989.

William M. Hill, Jr.,

Office of the Secretary.

[FR Doc. 89-28494 Filed 12-1-89; 2:08 pm]

BILLING CODE 7590-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 11:00 a.m., Monday, December 11, 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 foward 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: December 1, 1989.

William W. Wiles,

Secretary of the Board.

[FR Doc. 89–28529 Filed 12–1–89 3:53 pm]

BILLING CODE 6210–01–M

RESOLUTION TRUST CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:23 p.m. on Wednesday, November 29, 1989, the Board of Directors of the Resolution Trust Corporation met in closed session to consider certain matters relating to the Corporation's corporate activities.

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 by Chairman L. William Seidman, (Director M. Danny Wall, Director of the Office of Thrift Supervision, was absent for the vote at the beginning of the meeting), 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) and (c)(9)(b) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(9)(b)).

The meeting was held in the Board Room of the FDIC Building located at 550–17th Street, NW., Washington, DC

Dated: November 30, 1989.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Executive Secretary.

[FR Doc. 89–28427 Filed 11–30–89; 4:56 pm]

BILLING CODE 6714–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of December 4, 1989.

A closed meeting will be held on Tuesday, December 5, 1989, at 3:30 p.m.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Fleischman, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, December 5, 1989, at 3:30 p.m., will be:

Institution of injunctive actions.
Settlement of injunctive actions.
Settlement of administrative proceeding of an enforcement nature.
Institution of administrative proceedings of an enforcement nature.
Formal orders of investigation.

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: Amy Kroll at (202) 272–2200.

Dated: November 30, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–28493 Filed 12–1–90; 2:07 pm]

BILLING CODE 8010–01–M

THE UNITED STATES INSTITUTE OF PEACE

DATE: Thursday, December 7, 1989.

TIME: 9:00 a.m. to 5:30 p.m.

PLACE: The United States Institute of Peace, 1550 M Street, N.W. ground floor (conference room).

STATUS: Open session.—Thursday 9:15 a.m. to 5:30 p.m. (portions may be closed pursuant to subsection (c) of section 552(b) of title 5, United States Code, as provided in subsection 1706(h)(3) of the United States Institute of Peace Act, Pub. L. (98–525).

AGENDA: (Tentative):

Meeting of the Board of Directors convened. Chairman's Report. President's Report. Committee Reports. Consideration of the Minutes of the Thirty-sixth meeting of the Board. Consideration of grant application matters.

CONTACT: Ms. Olympia Diniak. Telephone (202) 457–1700.

Dated: November 29, 1989.

Bernice J. Carney,

Administrative Officer, The United States Institute of Peace.

[FR Doc. 89–28479 Filed 12–1–89; 2:05 pm]

BILLING CODE 3155–01–M

Corrections

Federal Register
Vol. 54, No. 231
Tuesday, December 5, 1989

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Parts 1900 and 1957

Sale of Section 502 Rural Housing Loans

Correction

In rule document 89-26961 beginning on page 47957 in the issue of Monday, November 20, 1989, make the following correction:

On page 47958, in the first column, in the fifth line, "Part 157" should read "Part 1957".

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review

Correction

In notice document 89-21208 appearing on page 37496 in the issue of Monday, September 11, 1989, make the following correction:

On page 37496, in the table under "Countervailing Duty Proceedings", in the entry "Argentina: * * *", in the second column, "07/14/88-12/31/89" should read "07/14/88-12/31/88".

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 91158-9258]

Foreign Fishing

Correction

In rule document 89-26956 beginning on page 47680 in the issue of Thursday, November 16, 1989, make the following corrections:

Appendix A to Subpart A [Corrected]

1. On page 47681, in Table 1., in the first column, in the eighth line, "Northeast" should read "Northwest".

2. On page 47682, in the first column, in the file line, the filing date should read "11-15-89".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[Docket No. 121RA-LDR; FRL-3625-9]

National Oil and Hazardous Substance Pollution Contingency Plan: Applicability of RCRA Land Disposal Restrictions to CERCLA Response Actions

Correction

Document 89-23721, beginning on page 41566 in the issue of Tuesday, October 10, 1989, was published in the "Notices" section of the issue. It should have appeared in the "Proposed Rules" section.

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[OPP-30302; FRL 3664-4]

Certain Companies; Applications to Register Pesticide Products

Correction

In notice document 89-27214 beginning on page 48313 in the issue of Wednesday, November 22, 1989, make the following corrections:

On page 48314, in the first column, in the third item under "**SUPPLEMENTARY INFORMATION**", in the ninth line, remove the "1" after "aminocarbonyl" and, in the 10th line, the second "*N*" should be followed by a hyphen.

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[OPP-00279; FRL-3630-6]

Nominations to the Scientific Advisory Panel; Request for Comments

Correction

In notice document 89-19247 beginning on page 33767 in the issue of Wednesday, August 16, 1989, make the following corrections:

1. On page 33767, in the first column, under **SUMMARY**, in the first line, "provide" was mispelled.

2. On the same page, in the second column, "**FOR FURTHER INFORMATION**" should read "**FOR FURTHER INFORMATION CONTACT**".

3. On page 33768, in the third column, in the first complete paragraph, in the 10th line, "diplomate" was mispelled.

4. On page 33769, in the first column, in the 29th line, "NIEHAS" should read "NIEHS".

5. On the same page, in the second column, in the first complete paragraph, in the ninth line, "pharacology" should read "pharmacology".

6. On page 33770, in the first column, in the first complete paragraph, in the third line, "an" should read "and". In the 16th line, "1968" should read "1969".

7. On the same page, in the second column, in the fifth line, "Southampton College" was mispelled, in the ninth line, "Signa" should read "Sigma", and in the 13th line, "chemicals" was mispelled.

8. On the same page, in the same column, in the third line of the final paragraph, "Laboratory" was mispelled.

9. On the same page, in the third column, in the first complete paragraph, in the sixth line from the end, "Diseases" should read "Disease".

10. On page 33771, in the first column, in the sixth line, the second "on" should read "in".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 89F-0451]

ICI Americas, Inc.; Filing of Food Additive Petition

Correction

In notice document 89-26989 appearing on page 47828 in the issue of Friday, November 17, 1989, make the following correction:

In the third column, under **SUPPLEMENTARY INFORMATION**, in the seventh line, "19877" should read "19897".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 89P-0225]

Ice Cream Deviating From the Standard of Identity; Temporary Permit for Market Testing

Correction

In notice document 89-27056 appearing on page 47829 in the issue of Friday, November 17, 1989, make the following correction:

In the third column, in the first complete paragraph, in the seventh line, insert "February 15, 1990" following "than".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Assessments for Incorrect or Late Reports and Failure to Report

November 1, 1989.

Correction

In notice document 89-27051 appearing on page 47838 in the issue of Friday, November 17, 1989, make the following correction:

In the 2nd column, in the 1st complete paragraph, in the 9th through the 15th lines, "'nonrespondent exceptions' will be $10 per month under AFS. The rates were established by MMS for PAAS on non-respondent reports will be $3 per month. The rate established by MMS for 'nonrespondent exceptions' will per month under AFS. The rates were" should read "'nonrespondent exceptions.' Based on actual costs incurred, the rate established by MMS for PAAS on non-respondent reports will be $3 per month. The rate established by MMS for 'nonrespondent exceptions' will be $10 per month under AFS. The rates were".

BILLING CODE 1505-01-D

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 430, 432 and 540

Performance Management and Recognition System

Correction

In rule document 89-27878 beginning on page 49075 in the issue of Wednesday, November 29, 1989, make the following corrections:

1. On page 49076, in the third column, in the last line of the first incomplete paragraph "acceptable" should read "unacceptable".

2. On page 49077, in the first column, section number "§ 431.107" should read "§ 432.107".

§ 432.107 [Corrected]

3. On the same page, in the third column, in § 432.107(b), in the eighteenth line insert "ending" between "period" and "on".

BILLING CODE 1505-01-D

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release Nos. 33-6846; 34-27281; 35-24954; 39-2227; IC-17146 IA-1205]

Organization, Functions and Authority Delegations

Correction

In rule document 89-23303 beginning on page 40862 in the issue of Wednesday, October 4, 1989, make the following correction:

§ 200.303 [Corrected]

On page 40862, in the 3rd column, in § 200.303(a)(2), in the 11th line, "e.s.t." should read "c.s.t.".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 89-AWA-5]

Establishment of the Memphis Terminal Control Area and Revocation of the Memphis International Airport, Airport Radar Service Area; TN

Correction

In rule document 89-25785 beginning on page 46226 in the issue of Thursday, November 2, 1989 make the following correction:

§ 71.403 [Correctly designated]

On page 46227, in the first column, the section number "§ 71.501" should read "§ 71.403".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 122

[T.D. 89-96]

Implementation of the Air Carrier Smuggling Prevention Program

Correction

In rule document 89-27025 beginning on page 47761 in the issue of Friday, November 17, 1989, make the following correction:

On page 47763, in the first column, in amendatory instruction 2, in the third line, "171.176" should read "122.176".

BILLING CODE 1505-01-D

federal register

Tuesday
December 5, 1989

Part II

Department of the Interior

Bureau of Indian Affairs

Fiscal Year 1990 Indian Child Welfare Act Grant Program; Availability of Title II Funds; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Fiscal Year 1990 Indian Child Welfare Act Grant Program; Availability of Title II Funds

November 28, 1989.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of availability of title II funds.

SUMMARY: The Indian Child Welfare Act makes available grant funds from the Bureau of Indian Affairs (BIA), Department of the Interior, for the purpose of improving child welfare services to Indian children and families.

EFFECTIVE DATE: The closing date for receipt of applications for this program is February 16, 1990.

ADDRESSES: Bureau of Indian Affairs' area offices are listed in Part IV of this announcement. BIA/Division of Social Services, Room 310 SIB, 18th and C Streets NW., Washington, DC, 20240.

FOR FURTHER INFORMATION CONTACT: The Bureau of Indian Affairs' area office nearest to the applicant, or the Acting Chief, Division of Social Services at the address listed above; Telephone (202) 343–6434.

SUPPLEMENTARY INFORMATION: The Assistant Secretary—Indian Affairs is announcing procedures necessary to apply for grant funds under title II of the Indian Child Welfare Act.

Applications for single-year programs as well as renewal applications for existing multi-year projects will be accepted. The available funding for all applications is $8.4 million. This includes approximately $2.0 million for new single-year applications. It is important that applicants carefully review requirements detailed in this announcement related to deadlines, indirect cost, and page limitations. If an application is not received by the close of business on February 16, 1990, the application will not be reviewed. If the applicant does not itemize indirect costs in its proposed budget a total of five points will automatically be deducted from Criteria V—"Fiscal Capabilities, Budget and Budget Justification, part (b)." If an application is longer than the established page limitation, only the first forty pages of the application will be reviewed.

Authority: The Indian Child Welfare Act, Public Law 95–608 authorized the utilization of funds for grants to Indian tribes, organizations, and multi-service Indian centers. This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Part I. General Information

A. Background

This announcement provides information on opportunities to apply for Indian Child Welfare Act (ICWA) grant funds for FY 1990. The Indian Child Welfare Act of 1978 (Pub. L. 95–608, 25 U.S.C. 1902, 25 U.S.C. 1931 and 1932) limits the use of grant funds for the following activities:

(1) To prevent separation of Indian children from their families when possible;

(2) When separation is necessary, to reunite Indian children with their families as soon as possible;

(3) When reunification is not possible, to arrange permanent placements with extended families or through adoption; and

(4) To carry out work with Indian children and their families in accordance with the preferences of the ICWA, following procedures and practices which reflect the unique values of Indian culture.

An applicant for an Indian Child Welfare Act Grant may submit only one grant application for this program during this application period (refer to 25 CFR 23.21(b)).

B. BIA Indian Child Welfare Act Grant Program Purpose

The purposes of the Bureau of Indian Affairs' Indian Child Welfare grants as specifically stated in the law are:

(1) The establishment and operation of Indian child and family service programs which promote the stability of Indian families, and

(2) The provision of non-Federal matching shares for the other Federal financial assistance programs which contribute to the same purpose.

These purposes are further defined in Public Law 95–608, sections 201 and 202; 25 U.S.C. 1931 and 1932; and 25 CFR 23.22.

The objective of every Indian child and family service program shall be to prevent the breakup of Indian families, and insure that the permanent removal of an Indian child from the custody of his/her parent or Indian custodian shall be a last resort.

C. Eligible Applicants

The governing body of any tribe or tribes, or any nonprofit off-reservation Indian organization or multi-service Indian center, may apply individually or as a consortium for a grant. No applicant may submit more than one application.

A consortium is created by an agreement or association between two or more eligible applicants.

New applications for projects of one year duration, as well as renewal applications for multi-year applications originally funded in FY 1989 may be submitted in response to this announcement.

Part II. Available Funds

The appropriation for this program in Fiscal Year 1990 is $8.4 million. This includes funding for existing multi-year programs. Approximately $2.0 million dollars will be available for single year grant applications nationwide this funding period. Grants will be awarded to individual tribes, organizations, or to consortia of tribes and organizations within the following categories:

(a) A maximum of up to $50,000 for eligible applicants with a total service area population of 2,500 or less;

(b) A maximum of up to $75,000 for eligible applicants with a total service area population greater than 2,500 but less than 5,000;

(c) A maximum of up to $100,000 for eligible applicants with a total service area population greater than 5,000 but less than 7,500;

(d) A maximum of up to $150,000 for eligible applicants with a total service area population of 7,500 but less than 15,000;

(e) A maximum of up to $300,000 for eligible applicants with a total service area of greater than 15,000.

Applicants in the State of Alaska will be allowed a 25 perent cost of living adjustment to the total maximum amount for which they may apply.

Notwithstanding the above grant guidelines, consortia having a total service area population of 5,000 or less, may apply for a maximum grant of up to $100,000 because of the greater administrative costs associated with operating a small consortium. Consortia with service area populations greater than 5,000 must comply with the grant guidelines set above.

Service area population means the total number of Indians eligible for service under 25 CFR 23.2 (d)(2) and/or (3), in the geographical area to which the tribe, or organization, or multi-service center can realistically provide the services proposed in the application. The service area population is used only to determine maximum grant allocations that a tribe, multi-service center, or organization may be eligible to receive. These population figures must be based on identifiable statistical resources.

All costs associated with the administration of proposed projects

shall be line itemized. Indirect cost as well as all other administrative costs must be broken down by percentage and dollar amounts. All administrative costs will be carefully scrutinized in relation to proposed funds used for direct services. If the applicant does not itemize indirect costs in its proposed budget, a total of five points will automatically be deducted from Criteria V—"Fiscal Capabilities. Budget and Budget Justification, Part (b)."

In accordance with 25 CFR 23.25(a)(8), the reasonableness and relevance of the estimated costs for the project are considered in the rating of all project applications. Administrative costs are only allowable within the funding specified by the grant formula and limitations specified in this announcement.

Applicants will not be funded for more than their demonstrated need, as specifically addressed in 25 CFR 23.24 and 23.25. The statistical requirements established in these regulations, as well as the tribe's multi-service center's or organization's prior service record will be used in determining need. Examples of necessary data include the number of actual or estimated Indian family breakups, and the number of persons who will receive direct services from any portion of the proposed program, by program area.

In accordance with 25 CFR 23.27(c)(3), if an applicant has been a grantee during the preceding fiscal year and proposes to continue essentially the same service program, the applicant, at the time of application, must provide a satisfactory evaluation from the area office along with the other materials required in this subsection.

A satisfactory evaluation means at a minimum, the timely submission of all fiscal and programmatic reports, including utilization of the corrective analysis form when programmatic changes are necessary. At no time may any Indian tribe, organization, or multi-service center which is either an eligible individual applicant in accordance with 25 CFR 23.21 or a member of a consortium, receive Indian Child Welfare Act grant funds greater than a maximum grant of $300,000 through a direct grant or through subgranting procedures with approved applicants.

Part III. Application and Selection Criteria

A. Statutory Authority

The Indian Child Welfare Program from the Bureau of Indian Affairs is authorized by Title II of Public Law 95–608, the Indian Child Welfare Act (25 U.S.C. 1901 *et seq.*, 25 CFR part 23). The appropriation for the grant program is $8.4 million. The Central Office will retain 10 percent of the total available funding, to assure funding for any applicant who may appeal a denial at the area office level. If these funds are not utilized for appeals, they will be distributed through the area offices to approved applicants.

B. The Closing Date for Receipt of Applications

The closing date for receipt of all applications under this Program Announcement is February 16, 1990. Applications for Indian Child Welfare Act Grants must be received in the appropriate Bureau of Indian Affairs' Social Services Area/Agency Office, as specified in 25 CFR 23.28, on/or before 4:15 p.m. or the applicable close of business for that office on the closing date of the application period. Post marks will not be considered as meeting the timeframe for applications received after the application deadline. The names and addresses of Bureau Social Service Area Offices and staff are listed at the end of this announcement. Hand delivered applications are accepted during normal working hours Monday through Friday. Applications which do not meet this criteria are considered late applications and will not be considered in the current competition.

C. Program Priorities

Indian Child Welfare Act grants are for the purpose of:

(1) Establishment and operation of Indian child and family service programs. In accordance with the policy in 25 CFR 23.3 to emphasize the design and funding of programs to promote the stability of Indian families, program priorities have been established to be utilized by area offices in the competitive review process when more than one application obtains the same competitive score. These priorities reemphasize the programmatic interest in maintaining the family and preventing out-of-home placements. Program priorities are listed below in descending order:

(a) Operation and maintenance of facilities for the counseling and treatment of Indian families and for the temporary custody of Indian children.

(b) Family Assistance (including homemaker and home counselors), daycare, after-school care, recreational activities, respite-care, and employment.

(c) A system for the tribes and Indian organizations to license or otherwise regulate Indian foster and adoptive homes or the preparation and implementation of child welfare codes within their legal jurisdictional authority, or pursuant to a state-tribal and/or Indian organization agreement.

(d) Guidance, legal representation and advice to Indian families involved in tribal, state or federal child custody proceedings.

(e) Employment of professional and other trained personnel to assist the tribal court in the disposition of domestic relations and child welfare matters. (Funding of tribal court staff is not allowable.)

(f) Education and training of Indians (including tribal court judges and staff) in skills relating to child and family assistance and service programs.

(g) Subsidy programs under which Indian adoptive children may be provided support comparable to that for which they could be eligible as foster children, taking into account the appropriate state standards of support for maintenance and medical needs.

(h) Home improvement programs.

(i) Other programs designed to meet the purpose of the Act. Planning or feasibility grants may be undertaken for any one of the above listed program purposes. These applications will be ranked according to the priority of the program under consideration.

(2) Providing non-Federal matching shares for other Federal financial assistance programs as prescribed in 25 CFR 23.43. The order of priorities of matching share grants will correlate with the purpose of the program receiving the match.

D. Content of the Application

The application shall be no longer than 40 pages, double spaced, excluding the appendix. The table of contents and appendices will not be counted toward the maximum length. It is recommended that the appendix be no longer than 20 pages. Any application whose narrative exceeds 40 pages will not be reviewed past page 40.

The application shall include standard form 424 and the following information:

(1) Name and address of Indian tribal governing body(ies) or Indian organization applying for a grant,

(2) Descriptive name of project,

(3) Grant funds requested,

(4) The unduplicated client service population directly benefiting from the project,

(5) Length of project,

(6) Beginning date,

(7) Project budget categories or items,

(8) Program narrative statement (including three year plans if current multi-year grantee),

(9) Certification or evidence of request by Indian tribe or board of Indian

organization (preferably covering the duration of the proposed project),

(10) Evidence of substantial community support for the proposed program. This request may be in the form of a tribal resolution, an endorsement included in the grant application or such other forms as the tribal constitution or current practice requires,

(11) Name and address of the Bureau office to which an application is submitted,

(12) Date application is submitted to the Bureau, and

(13) Additional information pertaining to grant applications for funds to be used as matching shares.

Information included in the appendix should related specifically to the application. The appendix may include, but is not limited to the following: Resolutions, support letters, position descriptions, fiscal management/accounting certification, operational monitoring system, non-profit status documentation.

E. Evaluation Criteria

The content of the application and the following factors are considered in the competitive review of these grant applications:

(1) The degree to which an applicant demonstrates in the program narrative an understanding of the social service problems or issues impacting the client population which the applicant proposes to serve. (If an applicant identifies alcohol or drug abuse as a major problem or issue impacting Indian children and families, they must also clearly address current efforts to coordinate existing resources to attack these problems. This may include information on the development or contents of the Tribal Action Plan specified under section 4206 of the Omnibus Drug and Alcohol Abuse Act of 1986.)

(2) The degree to which and the methods by which the applicant intends to fulfill the purpose of the grant, specifically relating to the goals and objectives of the program to the issues and problems impacting the client population. (The proposed methods outlined in the application should have an established basis for operation, e.g., a tribal placement program requires tribally established licensing or placement standards on which to operate, or a program to assist the tribal court requires a tribal code and a tribe court with which to work, etc.)

(3) Whether the applicant presents narrative, quantitative data and demographics of the client population to be served. Examples of such data include:

(a) The number of actual or estimated Indian child placements outside the home;

(b) The number of actual or estimated Indian family breakups; and

(c) The need for a directly related preventive program. (Refer to part II for further explanation.)

(4) The relative accessibility which the Indian population to be served under a specific proposal already has to existing child and family service programs emphasizing prevention of Indian family breakup. Factors to be considered in determining accessibility include:

(a) Cultural barriers;

(b) Discrimination against Indians;

(c) Inability of potential Indian clientele to pay for service;

(d) Lack of programs which provide free service to indigent families;

(e) Technical barriers created by existing public or private programs;

(f) Availability of transportation to existing programs;

(g) Distance between the Indian community to be served under the proposal and nearest existing programs;

(h) Quality of service provided to Indian clientele; and

(i) Relevance of service provided to specific needs of Indian clientele.

(5) The proper justification of the extent to which the proposed program would duplicate any existing child and family service program emphasizing prevention of family breakup, taking into consideration all the factors listed in paragraphs (1), (2), (3), and (4) of this section. Proper justification must be given for any duplication of services.

(6) Evidence of substantial community support for the proposed program from the Indian community or communities to be served. Such support may be evidenced by:

(a) Letters of support from individuals and families to be served;

(b) Local Indian community representation in and control over the Indian entity requesting the grant;

(c) Letters from local social service or social service related agencies familiar with the applicant's past work experience;

(7) The explanation of proposed facilities and of the structure of the tribal or Indian organization requesting grant funds, and the position description of any position to be funded with grant funds, identifying qualifications, responsibilities, and lines of supervision.

(8) The reasonableness and relevance of the estimated costs of the proposed program or service.

An application shall not receive a preliminary approval unless a review of the application determines that it:

(a) Contains all the information required in "D. Content of an Application".

(b) Receives a minimum score of 85 in a competitive review under the scoring process using the selection criteria established in regulation.

(c) If an applicant has been a grantee during the year immediately preceding the year for which an application is being made, and has made an application to continue essentially the same service program, satisfactory evaluation(s) from the area office review of the program must be provided in addition to the other materials required in this subsection.

F. Single Year Grant Review Process

The Assistant Secretary—Indian Affairs or his/her designated representative shall select for grants under the Indian Child Welfare Act those proposals which will in his/her judgment best promote the purposes of the Act. Such selection will be made through a review process in which each application will be scored competitively using the BIA review criteria listed above at the appropriate Bureau Social Service Office referred to in 25 CFR 23.30, 23.31, or 23.33. Grant applications will be reviewed by a panel of reviewers qualified by training and/or experience in human services to Indian populations. These recommendations will be used by the Assistant Secretary—Indian Affairs' designated representative to preliminary approve or disapprove all single year grant applications, and make funding recommendations to the Central Office. The Assistant Secretary—Indian Affairs has final funding authority.

G. Procedures for Submission of Multi-Year Renewal Applications

The Assistant Secretary—Indian Affairs may award grants for the second year of approved multi-year project proposals as authorized in 25 CFR 23.37. *No new multi-year projects shall be considered in the FY 1990 application period.* Funding of projects is subject to the availability of funds in accordance with 25 CFR 23.27(e). Only current grantees who have FY 1989 approved multi-year projects may submit renewal applications.

Current multi-year projects grantees must submit three copies of renewal applications which contain the following information to the appropriate agency or area office:

(1) New SF–424;

(2) Updated information required in 25 CFR 23.24, 23.25, 23.26 and 23.27(c)(3);

(3) Updated Operational Monitoring System (OMS);

(4) Proposed budget.

Grantees must have a satisfactory evaluation of the current year of their multi-year project from the Area Office in order to be considered for funding for subsequent project years (25 CFR 23.27(c)(3)).

As stated in 25 CFR 23.37(e), requests (e.g., resolutions) from tribal governing bodies or Indian organizations which cover the duration of the multi-year project will fulfill the requirements specified in 25 CFR 23.26 and do not need to be resubmitted on an annual basis. Resolutions that covered only one year of the project must be updated for the year which the grantee is submitting a renewal application.

Grantees must comply with 25 CFR part 276 in terms of both financial and performance reporting requirements. Failure to meet and comply with regulatory requirements may result in suspension, cancellation and/or termination of program funds. The OMS for a multi-year renewal application must demonstrate a developmental approach to the delivery of the proposed child and family service project (25 CFR 23.37(d)(2)). In revising or updating the OMS, renewal applicants shall submit an OMS–2. Applicants may specify that the OMS–2 does not require updating and should note such in the renewal application.

H. Renewal Application Review

Upon submission of the initial application and the renewal application, the area/agency certification form will be completed by the appropriate area/agency office specified in 25 CFR 23.30 or 23.31. The applicant must include a satisfactory evaluation of their existing ICWA program (25 CFR 23.27(c)(3)) to include with their renewal application.

Materials submitted for renewal shall not be subject to competitive review. The area social worker or designated social services staff shall review renewal applications for compliance with 25 CFR part 23 and 25 CFR part 276. The area social worker or designated social services staff shall make recommendations based on this review.

I. Renewal Application Funding

Funding shall be in accordance with the formula published in the **Federal Register** (25 CFR 23.27(e)(1)). Funding after the first year of a multi-year project will depend upon the grantee's progress in achieving the objectives of the project according to the approved work plan submitted in the previous year(s) of the project (25 CFR 23.37(f)), demonstrated need, and the availability of funds.

J. Appeals

In accordance with 25 CFR 2.20(c), 23.63, and 23.64, the Assistant Secretary—Indian Affairs has made a determination to assume administrative jurisdiction over all Fiscal Year 1990 Indian Child Welfare Act Grant Application appeals.

Notice(s) of appeals must be filed within 30 days of the appellant's receipt of the decision being appealed. The notice is filed in the office of the official whose decision is being appealed. The date of filing is the date the notice of appeal is postmarked or the date it is personally delivered to the official's immediate office. (25 CFR 2.9(a), 2.13(a).) No extension of time will be granted for filing a notice of appeal. (25 CFR 2.9(a), 2.16.)

The Statement of Reasons must be filed within the next 30 days in the office of the official whose decision is being appealed. It may be included in or filed with the notice of appeal. (25 CFR 2.10.) The Assistant Secretary—Indian Affairs shall take action and render a decision in accordance with the provisions required in 25 CFR 2.20.

Part IV. BIA Area Offices—Area Social Workers

Aberdeen—Dean Krahulec, 115 4th Avenue SE., Aberdeen, SD 57401; (605) 226–7351

Albuquerque—Joe Naranjo, 615 1st Street, P.O. Box 26567, Albuquerque, NM 87125–6567; (505) 766–3321

Anadarko—Jerry Bridges, P.O. Box 368, Anadarko, OK 73005; (405) 247–6673 ext. 257

Billings—Louise Reyes, 316 N. 26th Street, Billings, MT 59101; (406) 657–6651

Eastern—Evelyn Roanhorse, 18th and C Streets NW., Code 1000, Washington, DC 20240; (703) 235–3179

Juneau—Jimmie Clemmons, P.O. Box 3–8000, Juneau, AK 99802–1219; (907) 586–7611

Minneapolis—Rosalie V. Clark, 15 South Fifth Street, 10th Floor, Minneapolis, MN 55402; (612) 349–3615

Muskogee—Alice Allen, Old Federal Building, Muskogee, OK 74401; (918) 687–2507

Navajo—Nancy Evans, P.O. Box M, Window Rock, AZ 86515; (602) 871–5151

Phoenix—Elizabeth Black Owl, One North First Street, P.O. Box 10, Phoenix, AZ 85004; (602) 241–2262

Portland—Area Social Worker, 1002 NE Holladay, P.O. Box 3785, Portland, OR 97232; (503) 231–6783/6785

Sacramento—Kevin Sanders, Federal Office Building, 2800 Cottage Way, Sacramento, CA 95825; (916) 978–4691.

Eddie F. Brown,

Assistant Secretary—Indian Affairs.

[FR Doc. 89–28313 Filed 12–4–89; 8:45 am]

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federal register

Tuesday
December 5, 1989

Part III

Department of Transportation

Coast Guard

Approval of Inflatable Lifejackets; Interim Final Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 160

[CGD 78-174b]

RIN 2115-AC16

Approval of Inflatable Lifejackets

AGENCY: Coast Guard, DOT.

ACTION: Interim Final Rule.

SUMMARY: This interim final rule establishes structural and performance standards and procedures for approval of inflatable lifejackets, as well as requirements for associated manuals, servicing programs, and shore-side service facilities. Inflatable lifejackets need only minimal stowage space and are well suited for use on vessels that have stowage space and weight limitations. Inflatable lifejackets are allowed only on certain inspected vessels and submersibles and must be serviced annually at approved servicing facilities. Their use is optional but, if carried, certain limitations apply.

DATES: *Effective date*: This rule becomes effective on January 4, 1990.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of January 4, 1990. *Comment Date*: Comments must be received by January 19, 1990.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G-LRA-2/3600) (CGD 78-174b), U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, DC 20593-0001. Comments will be available for examination and copying at, and may be delivered to, Room 3600 at the above address, between the hours of 8 a.m., and 3 p.m. Monday through Friday, except holidays. The telephone number is (202) 267-1477.

A final regulatory evaluation has been included in the public docket for this rulemaking. The regulatory evaluation and other materials referenced in this document may be inspected and copied at the Marine Safety Council, between the hours of 8 a.m. and 3 p.m. Monday through Friday, except holidays, at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Samuel Wehr, Office of Marine Safety, Security, and Environmental Protection, Attn: G-MVI-3/14, 2100 Second St., SW., Washington, DC 20593-0001, (202) 267-1444.

SUPPLEMENTARY INFORMATION:

Notice of Proposed Rulemaking. A Notice of Proposed Rulemaking (NPRM) was published in the **Federal Register** on May 29, 1985 (50 FR 21862 and 21878). Corrections to this NPRM were published in the **Federal Register** of June 18, 1985 (50 FR 25274). The comment period on the proposal ended on July 15, 1985. Comments were received from a total of 19 parties.

Hybrid Personal Flotation Devices (PFD's). The NPRM proposed requirements for both hybrid PFD's and inflatable lifejackets. An interim final rule promulgating hybrid PFD requirements was published in the **Federal Register** on August 22, 1985 (50 FR 33923). Corrections to this rule were published on February 4, 1986 (51 FR 4349). Comments that addressed concerns relating to the hybrid requirements were analyzed and discussed in that publication. Some of those comments are also relevant to inflatable lifejackets and are addressed in the discussion of comments in this rulemaking.

Carriage Requirements for Inflatable Lifejackets. Provisions relating to carriage of inflatable lifejackets as substitutes for other required lifejackets on board various types of vessels will be included in regulations being proposed under a project to update the lifesaving appliances and arrangements for all vessels to implement the 1983 Amendments to SOLAS 1974 (SOLAS 74/83) (Docket CGD 84-069) (new Subchapter W). Advance notice of this related rulemaking was published in the **Federal Register** of April 29, 1985 (50 FR 17530). A Notice of Proposed Rulemaking was published April 21, 1989 (54 FR 16198). Until the rulemaking is completed, inflatable lifejackets may be accepted for carriage under the equivalency provisions in the various vessel regulations by contacting the Commandant (G-MVI) according to 46 CFR 30.15, 46 CFR 70.15, 46 CFR 90.15, 46 CFR 108.105, 46 CFR 167.35-1, 46 CFR 169.109, and 46 CFR 175.15. The Coast Guard expects to follow the guidelines in the inflatable PFD NPRM published on May 29, 1985 when granting an acceptance.

Request for public hearing. Two requests for a public hearing were received at the end of the comment period. As discussed in the interim final rule for hybrid PFD's published in the **Federal Register** on August 22, 1985 (50 FR 33923), no public hearings were held because the written comments received during the comment period provided such ample information with detailed recommendations that a public hearing would not, in all probability, provide any new information. Also, the concerns of those requesting public hearings had already been discussed in several public meeting of the National Boating Safety Advisory Council (NBSAC), and were adequately documented for Coast Guard review and consideration. The Coast Guard, therefore, determined there was not a sufficient need for having a public hearing.

Drafting Information

The principal persons involved in drafting this rule were: Mr. Samuel Wehr, Office of Marine Safety, Security, and Environmental Protection, and Christena Green, Office of the Chief Counsel.

Discussion of Comments and Revisions Made

General

Reliability and "Type" Designation of Inflatables as Opposed to Hybrids. One commenter requested an explanation of why inflatables are to be approved for Type I PFD service while hybrids are being approved only for Type II or III service. The performance type assigned to the device is to designate differences in intended use and flotation performance for the device. Type I devices are reversible and provide face-up flotation, among other things. If a commercial hybrid PFD can be made to be reversible, to have the necessary face-up flotation performance, and to meet the other Type I performance requirements, it could be accepted for carriage in lieu of Type I on at least certain classes of vessels, if not all classes.

The commenter also stated that the hybrid would appear to be more reliable because of its inherent buoyancy. The reliability of all types of PFD's is basically equivalent but is achieved in different ways. Because hybrid PFD's have inherent buoyancy and are REQUIRED TO BE WORN, they are permitted to be serviced by the user instead of an approved servicing facility. Because inflatables have no inherent buoyancy and required wear is not practical on large commercial vessels, inflatable lifejackets are required to be serviced annually at an approved servicing facility to ensure an equivalent level of reliable operation. These differences were discussed in the Notice of Proposed Rulemaking (NPRM) (50 FR 21879-81) under the headings "5. *Coast Guard Studies*", "11. *PFD Reliability*", "13. *Need for Annual Servicing*", and "17. *REQUIRED TO BE WORN*". The preamble emphasized the need for professional servicing of inflatable lifejackets. The differences between hybrid and inflatable servicing requirements were also discussed in the

interim final rules for carriage of hybrid PFD's under the heading "7. *Need for Annual Servicing*" (51 FR 4339).

Use of Inflatables on Recreational boats. One commenter suggested that the Coast Guard evaluate overseas experience with use of inflatable lifejackets on recreational boats and permit their use on recreational boats in U.S. waters. Overseas experience was specifically solicited on the ANPRM. Many foreign governments responded and their comments are in the docket. There was no indication that inflatables would provide any additional benefit to recreational boating than hybrid PFD's. Further, Coast Guard studies discussed in the NPRM on inflatable lifejackets and hybrid PFD's indicate that a professional servicing program is needed to maintain continuing reliability of inflatable lifejackets. In a recreational boating environment, inflatables failed to operate approximately 20% of the time when not in a structured servicing program. Inflatables present a higher risk of fatalities than hybrids if not serviced regularly and properly. Since no satisfactory servicing program is available or could feasibly be developed for recreational boating, totally inflatable lifejackets are not being permitted to meet the carriage requirements on recreational boats at this time.

The Coast Guard continues to research ways to overcome this "operational reliability" problem. Proposals have been requested for research grants (54 FR 3552); data continues to be gathered on the use of hybrid PFD's; and discussions continue with industry, laboratory standards writing organizations, and state boating law administrators. When new hardware developments, carriage conditions, or other innovations reduce the risk of inflation failure to an acceptable level, a new rulemaking could be initiated to address this issue.

Work Vest Approval. Because of the apparent inconsistency in approving hybrids, but not inflatables, as work vests, one commenter suggested that inflatables might also be approved as work vests. This suggestion has not been adopted. It has not yet been demonstrated that an inflatable can be used in a work environment without significant unnoticed damage to an inflatable chamber making the device totally ineffective or otherwise rendering the device unserviceable. The inherent buoyancy in hybrids, however, permits them to be considered for use as work vests. As the studies mentioned in the NPRM indicate, the 10 pounds of inherent buoyancy in a commercial hybrid provides adequate flotation for most people. The Coast Guard believes that the risk of a hybrid with a damaged inflation chamber not supporting a user is minimal. However, the risk is too great to be considered with an inflatable work vest which has a damaged inflation chamber or which has an automatic inflation system of unknown reliability.

Use of Devices of the same or similar design. One commenter recommended that inflatable lifejackets carried on board a vessel be required to be "identical" rather than "of the same or similar design and have the same method of operation". The commenter stated that use of different styles on the same craft would compromise the donning and use demonstration and thus cause confusion and increase donning time in an emergency. This comment has not been adopted. Requiring "identical" lifejackets would make it difficult to replace damaged lifejackets and allowing use of similar designs is considered sufficient to avoid confusion in use.

Minimum Buoyancy Requirement. One commenter suggested that a minimum buoyancy of 35 lb. be required in inflatable lifejackets. Such a requirement would be design restrictive and is unnecessary because the performance requirements for inflatable lifejackets in the rule provide the same or better support, while allowing for future innovations in design. Therefore, this comment has not been adopted.

New Terminology. The term "lifejacket" replaces "life preserver" in all but the existing regulations 46 CFR 160.001 in order to be consistent with SOLAS 74/83 terminology. In subpart 160.001 only one paragraph is changed, and it would be confusing to use "lifejacket" without changing the term throughout. All regulations which are revised to comply with SOLAS 74/83 will use the term "lifejacket".

New Subpart Number. Since all lifesaving equipment regulations which meet SOLAS 74/83 are using a one hundred series designation, the inflatable lifejacket subpart number has been changed from "160.076" to "160.176".

Sections open to Comment. Section 160.176–13(d) (3) & (4), Static Measurements & Average Requirements; section 160.176–13(g), Lanyard Pull Test; and section 160.176–19, Servicing, have been significantly changed due to public comments, International Maritime Organization (IMO) clarifications of SOLAS 74/83, and Coast Guard observations. The changes to these sections are discussed in detail in the following section. As these items were not included in the notice of proposed rulemaking for this project, the Coast Guard is extending an opportunity for all interested parties to comment upon them. All comments submitted within the next forty-five days will be considered by the Coast Guard in determining whether to retain or make further modifications to these provisions.

Persons submitting comments should include their name and address, identify this rule as CGD 78–174b, and give the reasons for the comment. Persons desiring acknowledgment that their comments have been received should enclose a stamped self-addressed post card or envelope.

Other Changes or Suggested Changes to Specific Sections

Section Reorganization. The sections dealing with procedures for approval have been relocated to the front of the subpart to be consistent with other recent equipment approval subparts and to improve the clarity of the regulation. This change required renumbering several other sections. The reorganized section numbers are as follows:

Section No. in NPRM	Section No. in Final Rule	Section Title
160.076–1	160.176–1	Scope.
None	160.176–2	Application.
160.076–3	160.176–3	Definitions.
160.076–5	160.176–4	Incorporation by Reference.
160.076–25	160.176–5	Approval Procedures.
160.076–27	160.176–6	Procedure for Approval of Design or Material Revision.
160.076–29	160.176–7	Independent Laboratories.
160.076–7	160.176–8	Materials.
160.076–9	160.176–9	Construction.
160.076–11	160.176–11	Performance.
160.076–13	160.176–13	Approval Tests.
160.076–15	160.176–15	Production Tests and Inspections.
160.076–17	160.176–17	Manufacturer Records.
160.076–19	160.176–19	Servicing.
160.076–21	160.176–21	User Manuals.
160.076–23	160.176–23	Marking.

Section 160.176–2, Application. For clarity, a new section, "Application" has been added by taking material from the proposed "Scope".

Section 160.176–3(h), Reference Vest. One commenter stated that the reference vest could not be made according to the description in the proposal, and suggested a Type I PFD made according to Subpart 160.055 should be used. One of the tests which used the reference vest (§ 160.176–13(d))

has been revised to eliminate the need for the reference vest, but no alternative is yet available for the other test (§ 160.176–9(a)(7)). Therefore § 160.176–3(h) has been revised to parallel the hybrid subpart (§ 160.077–3(j)). The revised specification allows larger front insert envelopes.

Section 160.176–5(c), Approval of Servicing Facilities. This section has been rewritten to clarify the details of what must be submitted for approval and to correspond with the changes to the section on servicing, § 160.176–19.

Section 160.176–8(a)(3), Use of Independent Laboratories. Reference to subpart 159.010 has been added to clarify the procedures for laboratory acceptance. This section has been changed to be consistent with hybrid PFD interim final rule published August 22, 1985 (50 FR 33923).

Section 160.176–8, Material Requirements. The weathering resistance requirement is dropped where the material is suitably shielded from UV exposure and the retained strength requirement is reduced from 45% to 40%. For the fungus resistance requirement, materials that are covered in use are permitted to be tested with the covering. For the corrosion resistance requirements, expendable elements are exempted from this requirement, and the alternative to run a salt spray test is provided. These sections have been changed to be consistent with the hybrid PFD interim final rule published August 22, 1985 (50 FR 33923).

Section 160.176–8(a)(4), Weathering Resistance. Two commenters suggested that this section be revised or that implementation be delayed to allow more materials to become available which meet the requirement. Two revisions, the waiver of the requirement if the material is suitably covered to protect it, and the change from 45% to 40% strength retention, which were made in the hybrid PFD interim final rule, have been made to the requirements in this section. These changes make an ample supply of materials available.

Section 160.176–9(a)(6), Reversibility. One commenter stated that the requirement for inflatable lifejackets to be reversible was unnecessary and might eliminate some superior designs. The requirement for reversibility is intended to increase the ease of donning, especially under conditions of poor lighting, and for this reason it is also a requirement of SOLAS 74/83. However, SOLAS also allows non-reversible designs as long as they can only be donned in one way. Section 160.176–9(a)(6) has been revised to include this exception.

Section 160.176–13(b) (3) and (4), Donning Test. One commenter questioned the feasibility of the 30 second donning requirement, suggested that there should be a disqualification procedure using a reference vest, and requested a description of the "jersey gloves" required to be used in this test. The 30 second requirement is feasible. Averaging effectively eliminates the need for a disqualification procedure. The term "jersey gloves" refers to gloves made from heavy, cotton-knit fabric and the section has been revised to reflect this description.

Section 160.176–13(d)(2)(ii), Righting Test. One commenter suggested that there should be a test subject disqualification procedure using a reference vest for this test and the tests in §§ 160.176–13(d) (3) and (4) and 160.176–13(f). Swim test subjects sometimes fail to perform properly and thereby adversely affect the test results for the lifejacket being tested. Accordingly, the test procedure must provide for discounting the results from such subjects. It is the testing organization's responsibility to correct the performance of a subject who is not following the test procedures. SOLAS 74/83 makes no provision for disregarding the results of a test subject because of poor results in a reference vest. It is, however, sometimes difficult to detect some subject performance problems. The use of the reference vest described in the hybrid regulation, § 160.176–3(h), is recommended for training and evaluation of test subjects but not for one-to-one comparison of each test result. Therefore the proposal has not been changed.

Other In-water Tests. One commenter suggested that several other tests should also be run in comparison to a reference vest or be modified. Comments on the following have not been adopted because (as noted above) they were not consistent with SOLAS 74/83 or were impractical:

Section 160.176–13(d) (3) and (4), Static Measurements and HELP Position Tests.

Section 160.176–13(f), Water Emergence.

Section 160.176–13(d) (3) and (4), Static Measurements & Average Requirements. The freeboard, torso angle, and face plane angle requirements have been revised in § 160.176–13(d)(3) and average requirements added in a new § 160.176–13(d)(4) to reflect a clarification of the SOLAS 74/83 requirements approved by the International Maritime Organization (IMO).

Section 160.176–13(e), Jump Test. One commenter stated that there should be a warning about the potential for injury from this test and suggested that subjects be advised to wear protective clothing during this test. The advisory note in § 160.176–13(e) has been revised accordingly. Additionally, paragraphs (2) and (3) of this section have been rewritten for greater clarity.

Section 160.176–13(g), Lanyard Pull Test. The lanyard test has been divided into two tests to add an evaluation of the strength of the lanyard in addition to the force necessary to activate the inflation mechanism. Since activation of the lifejacket manual inflation mechanism is achieved through pulling on the lanyard, failure of the lanyard could be a critical defect. Therefore, this additional test is necessary.

Section 160.176–13(h), Temperature Cycling Tests. Paragraph (2) of this section has been rewritten for greater clarity and to specify the temperature of the water to be used to activate the automatic inflation mechanisms. The temperature is the same as the test for hybrid PFD's.

Section 160.176–13(m), Salt Spray Exposure and Section 160.176–13(m)(2), Rain Exposure. One commenter questioned the duration of the salt spray test. The proposed duration of 760 hours was an error and has been corrected to 720 hours. Another commenter stated that it was unreasonable to expect an automatic inflation mechanism not to prematurely inflate during these tests. If a cover on the inflation mechanism is part of the lifejacket design, the inflation mechanism may remain covered during the test. This should preclude premature inflation.

Minor Changes. The following sections have been revised as a result of the comments:

Figure 160.176–13(n)(2) has been redrawn.

In Section 160.176–13(q) the fuel depth has been changed to 1 inch.

In Section 160.176–13(t) the maximum pressure loss has been increased from 4% to 5%.

Section 160.176–13(r). Solvent Exposure. One commenter suggested that the test fuel used and the duration of this test should be changed because it was believed to be excessive and unrealistic. The duration is not excessive but the effects of the fuel are perhaps more pernicious than might be expected in the intended use environment. The 24 hour exposure is a SOLAS 74/83 requirement and represents the cumulative effects of liquid fuel and fuel vapors on the device over its useful life. Reference fuel B,

however, is a more volatile fuel than is used on commercial vessels. The Coast Guard has, therefore, changed the test fuel to diesel fuel.

Section 160.176–13(u). Seam Strength. One commenter stated that he believed that the requirement for seam strength stated as 80% of the fabric breaking strength was too restrictive and would eliminate some perfectly good materials. The problem with an 80% requirement is that when a very heavy duty fabric is used, then an equally heavy duty thread is required, when in fact a lighter thread may provide a service life exceeding that of the other components in the lifejacket. Lighter threads are easier to work with and the requirement may actually discourage the use of more durable fabrics. Although the 80% requirement is believed to be good design practice in most cases, it probably is excessive in this case and has been deleted.

Section 160.176–19. Servicing. One commenter stated that the requirement to have the lifejackets sent out to a servicing facility would be time consuming, expensive, and would require having a large supply of extra lifejackets on hand. He stated that there should be some provision to allow a company to have its own trained/certified employee service the equipment. The Coast Guard agrees. The interim final rule has been revised to provide for approval of such companies as "other servicing facilities".

Although not significantly different than originally envisioned, more detail has been added to clarify the provisions of this section according to the above.

It should be noted that the Coast Guard is working on revisions to the liferaft servicing requirements under Docket CGD 81–010 (revised Subpart 160.051). Advance notice of this related rulemaking was published in the Federal Register of August 14, 1986 (51 FR 29117). If that rulemaking results in significant improvements over the lifejacket servicing program in this rule, the Coast Guard will initiate further rulemaking to revise the servicing provisions for inflatable lifejackets.

Section 160.176–21. User Manuals. This section has been revised to clarify who must provide the manuals and to whom they must be provided. This section has also been reorganized for greater clarity.

Regulatory Evaluation

These regulations are considered to be non-major under Executive Order 12291 and non-significant under Department of Transportation regulatory policies and procedures (44 FR 11034, February 26, 1979). A regulatory evaluation has been prepared and placed in the rulemaking docket. It may be inspected and copied at the address listed above under ADDRESSES. Copies may also be obtained by contacting the person listed under FOR FURTHER INFORMATION CONTACT.

The evaluation provides a detailed explanation of the estimated costs of these proposed regulations. The total approval costs per design are expected to be approximately $4000 for inflatables. Costs to approve other types of PFD's are approximately $2000. The additional cost to approve inflatable lifejackets could easily be absorbed in the cost of the units produced. The cost increase would be small when considering the number of lifejackets to be produced under authorization of each approval certificate. The Coast Guard anticipates that within the first year after issuing the interim final rules, one or two inflatable lifejacket designs would be approved.

Production inspection costs imposed by these regulations would be approximately $1,000 for the largest size lot of inflatable lifejackets permitted. This cost is similar to that incurred for other types of approved PFD's.

The retail cost, per device, is expected to be $100–$200 for inflatable lifejackets. These costs would be optional since carriage is optional. Currently approved PFD's range in price from $7 to $200 with an average cost of about $40.00 for Type I devices that could be replaced by inflatable lifejackets.

These regulations provide an alternative to users for whom limited stowage space or other operational considerations make the carriage of conventional inherently buoyant PFD's impractical or inadvisable. For these users, the optional carriage of inflatable lifejackets will meet their specific operational needs and will therefore justify the higher cost relative to inherently buoyant PFD's.

These regulations will have little or no effect on federal, state, or local governments except in their capacities as consumers of PFD's. Coast Guard steps to implement these rules will be done within the scope of ongoing marine safety activities, and there will be no need for additional federal budget commitments.

Based upon the information in the evaluation, as discussed above, the Coast Guard certifies that this rule will not have a significant economic impact on a substantial number of small entities.

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

Paperwork Reduction Act

The reporting and recordkeeping requirements in this regulation were reviewed by the Office of Management and Budget for approval under the Paperwork Reduction Act. The requirements listed below were approved on March 1, 1988, under consolidated OMB Number 2115–0141, "Reporting and Recordkeeping Requirements for Fire Fighting Equipment, Structural Fire Protection Materials, Lifesaving Equipment, and Marine Sanitation Devices".

Paperwork Requirements	OMB Approval Numbers
a. § 160.176–5	2115–0141
b. § 160.176–6	2115–0141
c. § 160.176–8(a)	2115–0141
d. § 160.176–17	2115–0141
e. § 160.176–19	2115–0141
f. § 160.176–21	2115–0141
g. § 160.176–23	2115–0141

List of Subjects in 46 CFR Part 160

Marine safety, Reporting and recordkeeping requirements, Incorporation by reference.

Regulations

In consideration of the foregoing, part 160 of title 46 of the Code of Federal Regulations is amended as set out below:

PART 160—LIFESAVING EQUIPMENT

1. The authority citation for part 160 is revised to read as follows:

Authority: 46 U.S.C. 3306, 3703, 4104, and 4302; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

2. The Table of Contents for part 160 is amended by adding subpart 160.176 to read as follows:

Subpart 160.176—Inflatable Lifejackets

Sec.

Sec.

* * * * *

3. Paragraph (c) of § 160.001–2 is revised to read as follows:

§ 160.001–2 General characteristics of life preservers.

* * * * *

(c) Life preservers which depend upon loose or granulated material for buoyancy are prohibited.

* * * * *

4. A new subpart 160.176 is added to read as follows:

Subpart 160.176—Inflatable Lifejackets

§ 160.176–1 Scope.

(a) This subpart contains structural and performance standards and procedures for approval of inflatable lifejackets, as well as requirements for associated manuals, servicing programs, and shore-side service facilities.

(b) Other regulations in this chapter provide that inflatable lifejackets must be:

(1) Serviced annually at designated servicing facilities; and

(2) Maintained in accordance with their user manuals.

(c) Inflatable lifejackets approved under this subpart—

(1) Rely entirely upon inflation for buoyancy;

(2) Meet the requirements for lifejackets in the 1983 Amendments to the International Convention for the Safety of Life at Sea, 1974 (SOLAS 74/83);

(3) Have performance equivalent to Type I Personal Flotation Devices (PFD's) with any one chamber deflated; and

(4) Are designed to be worn by adults.

§ 160.176–2 Application.

(a) Inflatable lifejackets approved under this subpart may be used to meet carriage requirements for Type I PFD's only on:

(1) Uninspected submersible vessels; and

(2) Inspected vessels for which a servicing program has been approved by the Commandant.

§ 160.176–3 Definitions.

(a) "Commandant" means the Chief of the Survival Systems Branch, U.S. Coast Guard Office of Merchant Marine Safety. Address: Commandant (G–MVI–3/14), U.S. Coast Guard Headquarters, 2100 Second St. SW., Washington, D.C. 20593–0001.

(b) "First quality worksmanship" means construction which is free from any defect materially affecting appearance or serviceability.

(c) "Functional deterioration" means—

(1) Damage such as deformation in hardware or a rip, tear, or loose stitches;

(2) Decline in any performance characteristic; or

(3) Any other change making the lifejacket unfit for use.

(d) "Functional residual capacity" (FRC) means the amount of lung volume a person has remaining at the bottom of the normal breathing cycle when at rest.

(e) "Inflation medium" means any solid, liquid, or gas, that, when activated, provides inflation for buoyancy.

(f) "Inspector" means an independent laboratory representative assigned to perform the duties described in § 160.176–15 of this subpart.

(g) "PFD" means personal flotation device as defined in 33 CFR 175.13.

(h) "Reference vest" means a model AK–1 PFD meeting Subpart 160.047 of this part, except that, in lieu of the weight and displacement values prescribed in Tables 160.047–4(c)(2) and § 160.047–(4)(c)(4), each front insert must have a weight of kapok of at least 8.25 oz. and a volume displacement of 9.0 ± 0.25 lb., and the back insert must have a weight of kapok of at least 5.5 oz. and a volume displacement of 6.0 ± 0.25 lb. To achieve the specified volume displacement, front insert envelopes may be larger than the dimensions prescribed by § 160.047–1(b).

(i) [Reserved]

(j) "Second stage donning" means adjustments or steps necessary to make a lifejacket provide its intended flotation characteristics after the device has been properly donned and then inflated.

§ 160.176–4 Incorporation by reference.

(a) Certain materials are incorporated by reference into this subpart with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a). To enforce any edition other than the one listed in paragraph (b) of this section, notice of the change must be published in the **Federal Register** and the material made available to the public. All approved material is on file at the Office of the Federal Register, 1100 L Street, NW., Washington, DC and at the U.S. Coast Guard, Survival Systems Branch (G–MVI–3), 2100 Second Street, SW., Washington, DC 20593–0001, and is available from the sources indicated in Paragraph (b) of this section.

(b) The materials approved for incorporation by reference in this subpart, and the sections affected are:

American Society for Testing and Materials (ASTM)

1916 Race St., Philadelphia, PA 19103

ASTM B 177–73/79 Standard Method of Salt Spray (Fog) Testing, 1973—160.176–8; 160.176–13

ASTM D 751–79 Standard Methods of Testing Coated Fabrics, 1979—160.176–13

ASTM D 975–81 Standard Specification for Diesel Fuel Oils, 1981—160.176–13

ASTM D 1434–75 Gas Transmission Rate of Plastic Film and Sheeting, 1975—160.176–13

Federal Aviation Administration Technical Standard Order

Policy and Procedure Br., AWS–110, Aircraft Engineering Division, Office of Airworthiness, 800 Independence Ave., SW., Washington, DC 20591

TSO–C13d, Federal Aviation Administration Standard for Life Preservers, January 3, 1983—160.176–8

Federal Standards

Naval Publications and Forms Center, Customer Service, Code 1052, 5801 Tabor Ave., Philadelphia, PA 19120

In Federal Test Method Standard No. 191A (dated July 20, 1978) the following methods:

(1) Method 5100, Strength and Elongation, Breaking of Woven Cloth; Grab Method—160.176–13

(2) Method 5132, Strength of Cloth, Tearing; Falling-Pendulum Method—160.176–13

(3) Method 5134, Strength of Cloth, Tearing; Tongue Method—160.176–13

(4) Method 5804.1, Weathering Resistance of Cloth; Accelerated Weathering Method—160.176–8

(5) Method 5762, Mildew Resistance of Textile Materials; Soil Burial Method—160.176–8

Federal Standard No. 751a, Stitches, Seams, and Stitching, January 25, 1965—160.176–9

Military Specifications

Naval Publications and Forms Center, Customer Service, Code 1052, 5801 Tabor Ave., Philadelphia, PA 19120

MIL–L–24811—Life Preserver Support Package For Life Preserver, MK 4, dated May 18, 1982—160.176–8

National Institute of Standards and Technology (NIST) (formerly National Bureau of Standards)

C/O Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402

Special Pub. 440, *Color: Universal Language and Dictionary of Names;* "The Universal Color Language" and "The Color Names Dictionary", 1976—160.176–9

Underwriters Laboratories (UL)

Underwriters Laboratories, Inc., P.O. Box 13995, Research Triangle Park, NC 27709–3995

UL 1191, "Components for Personal Flotation Devices", November 11, 1984—160.176–8; 160.176–13

§ 160.176–5 Approval procedures.

(a) *Modifications to general procedures.* Subpart 159.005 of this chapter contains the approval procedures. Those procedures must be followed, except as modified in this paragraph.

(1) Preapproval review under §§ 159.005–5 and 159.005–7 may be omitted if a similar design has already been approved.

(2) The information required under § 159.005–5(a)(2) (i) through (iii) of this chapter must be included in the application.

(3) The application must also include the following:

(i) The Type of performance (*i.e.* Type I or Type V) that the lifejacket is designed to provide.

(ii) Any special purpose(s) for which the lifejacket is designed and the vessel(s) or vessel type(s) on which its use is planned.

(iii) Buoyancy and torque tolerances to be allowed in production.

(iv) The text of any optional marking to be provided in addition to required text.

(v) The service manual and written guidelines required by §§ 160.176–19(c) and 160.176–19(d) of the part and the user's manual required by § 160.176–21 of this Part.

(vi) A list of proposed servicing facilities.

(4) The description of quality control procedures required by § 159.005–9 of this chapter to be submitted with the test report may be omitted as long as the manufacturer's planned quality control procedures comply with § 160.176–15 of this part.

(5) The test report must include, in addition to information required by § 159.005–9 of this chapter, a report of inspection of each proposed servicing facility. The report must include the time, date, place, and name of the person doing the inspection and observations that show whether the facility meets §§ 160.176–19(b)(2), 160–176–19(b)(4), and 160.176–19(d) of this part.

(6) The certificate of approval, when issued, is accompanied by a letter to the manufacturer listing the servicing facilities that have been approved. Copies of the letter are also provided for each facility.

(7) An approval will be suspended or terminated under § 159.005–15 of this chapter if the manufacturer fails to maintain approved servicing facilities that meet § 160.176–19 of this part.

(b) *Manuals and guidelines.* The manuals and servicing facility guidelines required by this subpart are reviewed with the application for lifejacket approval. Changes will be required if needed to comply with §§ 160.176–19 and 160.176–21 of this Part.

(c) *Approval of servicing facilities.* (1) Approval of servicing facilities initially proposed for use is considered during and as a part of the lifejacket approval process described in paragraph (a) of this section.

(2) Other servicing facilities may subsequently be considered for approval, upon submission of a letter of application to Commandant containing each of the applicable items required of manufacturers and laboratories under § 159.005–5 of this Chapter and the following:

(i) A copy of guidelines meeting § 160.176–19(d) of this Part, if different from those originally approved with the lifejacket;

(ii) A list of the sources the servicing facility proposes to use for parts and manuals for the servicing of the make and model of lifejacket applied for; and

(iii) A report of inspection prepared by an independent laboratory which includes the time, date, and place of the inspection, the name of the inspector, and observations that show whether the facility meets §§ 160.176–19(b)(2) through 160.176–19(b)(4) and 160.176–19(d) of this part.

(3) To conduct servicing at a remote or mobile site, the servicing facility must be authorized in its letter of approval to conduct this type of servicing. Approval for servicing at these sites is obtained according to paragraph (c)(2) of this section except that portable or mobile equipment must be available when evaluating the compliance with § 160.176–19(b)(3) of this part.

(4) Each change to equipment, procedure, or qualification and training of personnel of an approved servicing facility must be also approved.

(d) *Waiver of tests.* If a manufacturer requests that any test in this subpart be waived, one of the following must be provided to the Commandant as justification for the waiver:

(1) Acceptable test results on a lifejacket of sufficiently similar design.

(2) Engineering analysis showing that the test is not applicable to the particular design or that by design or construction the lifejacket can not fail the test.

(e) *Alternative requirements.* A lifejacket that does not meet requirements in this subpart may still be approved if the device—

(1) Meets other requirements prescribed by the Commandant in place of or in addition to requirements in this subpart; and

(2) Provides at least the same degree of safety provided by other lifejackets that do comply with this subpart.

§ 160.176–6 Procedure for approval of design or material revision.

(a) Each change in design, material, or construction must be approved by the Commandant before being used in lifejacket production.

(b) Determinations of equivalence of design, construction, and materials may only be made by the Commandant.

§ 160.176–7 Independent laboratories.

A list of independent laboratories which have been accepted by the Commandant for conducting or supervising the following tests and inspections required by this subpart, may be obtained from the Commandant:

(a) Approval tests.

(b) Production tests and inspections.

(c) Inspection of approved servicing facilities.

(d) Testing of materials for the purpose of making the certification required by § 160.176–8(a)(3) of this part.

§ 160.176–8 Materials.

(a) *General*—(1) *Certification.* Each lot of material used in manufacturing lifejackets must have a certification of compliance with the requirements in this section. The certification must be made by the lifejacket manufacturer, the material supplier, or an independent laboratory accepted by the Commandant in accordance with Subpart 159.010 of this Chapter to make the certification. Each certification by a lifejacket manufacturer or a supplier must be accompanied by test results that show compliance with this section and must be notarized. Each certification by an independent laboratory must state the laboratory's acceptance.

(2) *Condition of materials.* All materials must be new.

(3) *Temperature range.* Unless otherwise specified in standards incorporated by reference in this section, all materials must be usable in all weather conditions throughout a temperature range of −30 °C to +65 °C(−22 ° F to +150 °F).

(4) *Weathering resistance.* Each non-metallic component which is not suitably covered to shield against ultraviolet exposure must retain at least 40% of its strength after being subjected to 300 hours of sunshine carbon arc weathering as specified by Method 5804.1 of Federal Test Method Standard Number 191A.

(5) *Fungus resistance.* Each non-metallic component must retain at least 90% of its strength after being subjected to the mildew resistance test specified by Method 5762 of Federal Test Method Standard No. 191A when untreated cotton is used as the control specimen. Also, the gas transmission rate of inflation chamber materials must not be increased by more than 10% after being subjected to this test. Materials that are covered when used in the lifejacket may be tested with the covering material.

(6) *Corrosion resistance.* Each metal component must—

(i) Be galvanically compatible with each other metal part in contact with it; and

(ii) Unless it is expendable (such as an inflation medium cartridge), be 410 stainless steel, have salt water and salt air corrosion characteristics equal or superior to 410 stainless steel, or perform its intended function and have no visible pitting or other damage on any surface after 720 hours of salt spray testing according to ASTM B 117.

(7) *Materials not covered.* Materials having no additional specific requirements in this section must be of good quality and suitable for the purpose intended.

(b) *Fabric*—(1) *All fabric.* All fabric must—

(i) Be of a type accepted for use on Type I life preservers approved under Subpart 160.002 of this part; or

(ii) Meet the Type V requirements for "Fabrics for Wearable Devices" in UL 1191 except that breaking strength must be at least 400 N (90 lb.) in both directions of greater and lesser thread count.

(2) *Rubber coated fabric.* Rubber coated fabric must be of a copper-inhibiting type.

(c) *Inflation chamber materials.*—(1) *All materials.* (i) The average permeability of inflation chamber material, determined according to the procedures specified in § 160.176–13(y)(3) of this Part, must not be more than 110% of the permeability of the materials determined in approval testing prescribed in § 160.176–13(y)(3) of this part.

(ii) The average grab breaking strength and tear strength of the material, determined according to the procedures specified in §§ 160.176–13(y)(1) and 160.176–13(y)(2) of this Part, must be at least 90% of the grab breaking strength and tear strength determined from testing prescribed in §§ 160.176–13(y)(1) and 160.176–13(y)(2) of this Part. No individual sample result for breaking strength or tear strength may be more than 20% below the results obtained in approval testing.

(2) *Fabric covered chambers.* Each material used in the construction of inflation chambers that are covered with fabric must meet the requirements specified for—

(i) "Bladder" materials in section 3.2.6 of MIL–L–24611(SH) if the material is an unsupported film; or

(ii) Coated fabric in section 3.1.1 of TSO–C13d if the material is a coated fabric.

(3) *Uncovered chambers.* Each material used in the construction of inflation chambers that are not covered with fabric must meet the requirements specified in paragraph (c)(2)(ii) of this section.

(d) *Thread.* All thread used in structural seams must meet § 160.001–2(j) of this chapter. Thread and fabric combinations must have similar elongation and durability characteristics.

(e) *Webbing.* Webbing used as a body strap, tie tape or drawstring, or reinforcing tape must meet § 160.002–3(e), § 160.002–3(f), § 160.002–3(h) of this part respectively. Webbing used for tie tape or drawstring must easily hold a knot and be easily tied and untied. Webbing used as reinforcing tape must not chafe the wearer.

(f) *Closures*—(1) *Strength.* Each buckle, snap hook, dee ring or other type of fastening must have a minimum breaking strength of 1600 N (360 lbs). The width of each opening in a closure, through which body strap webbing passes, must be the same as the width of that webbing.

(2) *Means of Locking.* Each closure used to secure a lifejacket to the body, except a zipper, must have a quick and positive locking mechanism, such as a snap hook and dee ring.

(3) *Zipper.* If a zipper is used to secure the lifejacket to the body, it must be—

(i) Easily initiated;

(ii) Non-jamming;

(iii) Right handed;

(iv) Of a locking type; and

(v) Used in combination with another type of closure that has a quick and positive means of locking.

(g) *Inflation medium.* (1) No inflation medium may contain any compound that is more toxic than CO_2 if inhaled through any of the oral inflation mechanisms.

(2) Any chemical reaction of inflation medium during inflation must not produce a toxic residue.

(h) *Adhesives.* Adhesives must be waterproof and acceptable for use with the materials being bonded.

(i) [Reserved]

(j) *Retroreflective Material.* Each lifejacket must have at least 200 sq. cm. (31 sq. in.) of retroreflective material on its front side, at least 200 sq. cm. on its back side, and at least 200 sq. cm. of material on each reversible side. The retroreflective material must be Type I material that is approved under Subpart 164.018 of this chapter. The retroreflective material attached on each side must be divided equally between the upper quadrants of the side. Attachment of retroreflective material must not impair lifejacket performance or durability.

(k) *PFD Light.* Each lifejacket must have a PFD light thast is approved under Subpart 161.012 of this chapter. The light must be securely attached to the front shoulder area of the lifejacket. Attachment of the light must not impair lifejacket performance.

§ 160.176–9 Construction.

(a) *General Features.* Each inflatable lifejacket must—

(1) Have at least two inflation chambers;

(2) Be constructed so that the intended method of donning is obvious to an untrained wearer;

(3) If approved for use on a passenger vessel, be inside a sealed, non-reusable package that can be easily opened;

(4) Have a retainer for each adjustable closure to prevent any part of the closure from being easily removed from the lifejacket;

(5) Be universally sized for wearers weighing over 40 kg. (90 pounds) and have a chest size range of at least 76 to 120 cm. (30 to 52 in.);

(6) Unless the lifejacket is designed so that it can only be donned in one way, be constructed to be donned with either the inner or outer surface of the lifejacket next to the wearer (be reversible);

(7) Not have a channel that can direct water to the wearer's face to any greater extent than that of the reference vest defined in § 160.176–3(h) of this part;

(8) Not have edges, projections, or corners, either external or internal, that are sharp enough to damage the lifejacket or to cause injury to anyone using or maintaining the lifejacket;

(9) Have a means for drainage of entrapped water;

(10) Be primarily vivid reddish orange, as defined by sections 13 and 14 of the "Color Names Dictionary," on its external surfaces;

(11) Be of first quality workmanship;

(12) Unless otherwise allowed by the approval certificate—

(i) Not incorporate means obviously intended for attaching the lifejacket to the vessel; and

(ii) Not have any instructions indicating attachment to a vessel is intended; and

(13) Meet any additional requirements that the Commandant may prescribe, if necessary, to approve unique or novel designs.

(b) Inflation mechanisms. (1) Each inflatable lifejacket must have

(i) At least one automatic inflation mechanism;

(ii) At least two manual inflation mechanisms on separate chambers;

(iii) At least one oral inflation mechanism on each chamber; and

(iv) At least one manual inflation mechanism or one automatic inflation mechanism on each inflation chamber.

(2) Each inflation mechanism must

(i) Have an intended method of operation that is obvious to an untrained wearer;

(ii) Not require tools to activate the mechanism;

(iii) Be located outside its inflation chamber; and

(iv) Be in a ready to use condition.

(3) Each oral inflation mechanism must

(i) Be easily accessible after inflation for the wearer to "top off" each chamber by mouth;

(ii) Operate without pulling on the mechanism;

(iii) Not be able to be locked in the open or closed position; and

(iv) Have a non-toxic mouthpiece.

(4) Each manual inflation mechanism must

(i) Provide an easy means of inflation that requires only one deliberate action on the part of the wearer to actuate it;

(ii) Have a simple method for replacing its inflation medium cartridge; and

(iii) Be operated by pulling on an inflation handle that is marked "Jerk to Inflate" at two visible locations.

(5) Each automatic inflation mechanism must

(i) Have a simple method for replacing its inflation medium cartridge and water sensitive element;

(ii) Have an obvious method of indicating whether the mechanism has been activated; and

(iii) Be incapable of assembly without its water sensitive element.

(6) The marking required for the inflation handle of a manual inflation mechanism must be waterproof, permanent, and readable from a distance of 2.5 m (8 feet).

(c) *Deflation mechanism.* (1) Each chamber must have its own deflation mechanism.

(2) Each deflation mechanism must

(i) Be readily accessible to either hand when the lifejacket is worn while inflated;

(ii) Not require tools to operate it;

(iii) Not be able to be locked in the open or closed position; and

(iv) Have an intended method of operation which is obvious to an untrained wearer.

(3) The deflation mechanism may also be the oral inflation mechanism.

(d) *Sewn seams.* Stitching used in each structural seam of a lifejacket must provide performance equal to or better than a Class 300 Lockstitch meeting Federal Standard No. 751a.

(e) *Textiles.* All cut edges of textile materials must be treated or sewn to minimize raveling.

(f) *Body strap attachment.* Each body strap assembly must be securely attached to the lifejacket.

§ 160.176–11 Performance.

(a) *General.* Each inflatable lifejacket must be able to pass the tests in § 160.176–13 of this Part.

(b) *Snag Hazard.* The lifejacket must not present a snag hazard when properly worn.

(c) *Chamber Attachment.* Each inflation chamber on or inside an inflatable lifejacket must not be able to be moved to a position that-

(1) Prevents full inflation; or

(2) Allows inflation in a location other than in its intended location.

(d) *Comfort.* The lifejacket must not cause significant discomfort to the wearer during and after inflation.

§ 160.176–13 Approval Tests.

(a) *General.* (1) This section contains requirements for approval tests and examinations of inflatable lifejackets. Each test or examination must be conducted or supervised by an independent laboratory. The tests must be done using lifejackets that have been constructed in accordance with the plans and specifications in the application for approval. Unless otherwise specified, only one lifejacket, which may or many not have been subjected to other tests, is required to be tested in each test. One or more lifejackets that have been tested as prescribed in paragraph (h) of this section must be used for the tests prescribed in paragraphs (j), (n), (q), and (r) of this section. The tests prescribed in paragraph (y) of this section require one or more lifejackets as specified in that paragraph.

(2) All data relating to buoyancy and pressure must be taken at, or corrected to, an atmospheric pressure of 760 mm (29.92 inches) of mercury and a temperature of 20°C (68°F).

(3) The tests in this section are not required to be run in the order listed, except where a particular order is specified.

(4) Some tests in this section require a lifejacket to be tested while being worn. In each of these tests the test subjects must represent a range of small, medium, and large heights and weights. Unless otherwise specified, a minimum of 18 test subjects, including both males and females, must be used. The test subjects must not be practiced in the use of the lifejacket being tested. However, they must be familiar with the use of other Coast Guard approved lifejackets. Unless specified otherwise, test subjects must wear only swim suits. Each test subject must be able to swim and relax in the water.

Note: Some tests have inherent hazards for which adequate safeguards must be taken to protect personnel and property in conducting the tests.

(b) *Donning.* (1) No second stage donning is allowed in the tests in this paragraph. An uninflated lifejacket with size adjustment at its mid-range is given to each test subject with the instruction: "Please don as quickly as possible, adjust to fit snugly, and inflate." Each subject must, within one minute, don the uninflated lifejacket, adjust it to fit snugly, and then inflate it.

(2) The average time of all subjects to complete the test in paragraph (b)(1) of this section must not exceed 30 seconds. The criteria in this paragraph do not apply to the tests in paragraphs (b)(3) and (b)(4) of this section.

(3) The test in paragraph (b)(1) of this section is repeated with each subject wearing an insulated, hooded parka and gloves made from heavy, cotton-jersey (knit) fabric.

(4) The test in paragraph (b)(1) of this section is then repeated twice more with a fully inflated lifejacket. In the first test the subjects must wear swim suits and in the second test, parka and gloves.

(c) *Inflation tests.* No second stage donning is allowed in the tests in this paragraph. A lifejacket with each automatic inflation mechanism disabled must be used for the tests prescribed in paragraphs (c)(1) and (c)(2) of this section.

(1) Each test subject dons an uninflated lifejacket and is instructed to enter the water and swim for approximately 30 seconds and then, on command, inflate the lifejacket using only oral inflation mechanisms. Within 30 seconds after the command is given, the lifejacket must be sufficiently inflated to float each subject with respiration unimpeded.

(2) Each test subject dons an uninflated lifejacket and is instructed to enter the water and swim for approximately 30 seconds, bring both hands to the surface, and then, on command, inflate the lifejacket using each manual inflation mechanism. Each test subject must find and operate all the manual inflation mechanisms within 5 seconds after the command is given. The manual inflation mechanisms must inflate the lifejacket sufficiently to float the wearers within 5 seconds after the mechanisms are operated. Within 20 seconds after activation each subject must be floating in the position described in paragraph (d)(3) of this section.

(3) One small and one large test subject don uninflated lifejackets and jump feet first from a height of 1 meter into the water. The automatic inflation mechanisms must inflate the lifejackets sufficiently to float the wearers within 10 seconds after the subjects enter the water. Within 20 seconds after entering the water each subject must be floating in the position described in paragraph (d)(3) of this section.

(4) Air at a pressure of 4.2 kPa (0.6 psig) is applied separately to each oral inflation mechanism of — (i) a packed lifejacket if the lifejacket is provided in a resusable package; or (ii) an unpacked lifejacket if it is provided with no package or is in a sealed or non-reusable package. In each application the chamber must fully inflate within 1 minute.

(5) Each oral inflation mechanism of an unpacked lifejacket is connected to a regulated air source constantly supplying air at a pressure of 7 kPa (1 psig). Each mechanism must pass at least 100,000 cc of air per minute.

(d) *Flotation stability*—(1) *Uninflated flotation stability.* Lifejackets with their automatic inflation mechanisms disabled must be used for this test. Each subject dons an uninflated lifejacket, enters the water, and assumes an upright, slightly back of vertical, position. Each subject then relaxes. For each subject that floats, the uninflated lifejacket must not tend to turn the wearer face-down when the head is allowed to fall back.

(2) *Righting action.* (i) Each test subject dons an uninflated lifejacket, enters the water, allows the automatic inflation mechanism to inflate the lifejacket, and swims for 30 seconds. While swimming, freedom of movement and comfort are observed and noted by the person conducting the test. Freedom of movement and comfort must comply with § 160.176-11(d). Also, each subject must demonstrate that the lifejacket can be adjusted while the subject is in the water.

(ii) Each subject then takes three gentle breast strokes and while still face-down in the water, relaxes completely while slowly exhaling to FRC. Each subject remains in this limp position long enough to determine if the lifejacket will turn the subject from the face-down position to a position in which the subject's breathing is not impaired. The time from the last breast stroke until breathing is not impaired is recorded. Each subject repeats these steps three times, and the average time for the three righting action is calculated. This average time must not exceed 5 seconds.

(iii) If the lifejacket does not have automatic inflation mechanisms for all chambers, the tests in paragraphs (d)(2)(i) and (d)(2)(ii) of this section are repeated with each lifejacket fully inflated.

(iv) Each subject then performs the test in paragraph (d)(2)(ii) of this section with one chamber of the lifejacket deflated. This test is then repeated as many times as necessary to test the lifejacket with a different chamber deflated until each chamber has been tested in this manner.

(v) Each subject then performs the test in paragraph (d)(2)(ii) of this section but exhales to FRC at the end of the third breast stroke and holds the breath prior to relaxing.

(3) *Static measurements.* At the end of each test with each subject in § 160.176-13(d)(2)(ii), through § 160.176-13(d)(2)(v)—

(i) The freeboard (the distance from the water surface to the bottom of the mouth) must be at least 100 mm (4.0 in.) without repositioning of any part of the body and at least 120 mm (4.75 in.) after the head is positioned on the lifejacket for maximum freeboard and then relaxed;

(ii) The distance from water surface to the lower portion of the ear canal must be at least 50 mm (2 in.);

(iii) The torso angle (the angle between a vertical line and a line passing through the shoulder and hip) must be between 20° and 65° (back of vertical);

(iv) The face-plane angle (the angle between a vertical line and a line passing through the most forward part of the forehead and chin) must be between 15° and 60° (back of vertical);

(v) The lowest mark on a vertical scale 6 m (20 ft.) from and in front of the subject which the subject can see without moving the head must be no higher than 0.3 m (12 in.) from the water level.

(vi) The subject when looking to the side, must be able to see the water within 3 m (10 ft.) away; and

(vii) At least 75% of the retroreflective material on the outside of the lifejacket, and the PFD light, must be above the water.

(4) *Average requirements.* The test results for all subjects must be averaged for the following static measurements and must comply with the following:

(i) The average freeboard prior to positioning the head for maximum freeboard must be at least 120 mm (4.75 in.);

(ii) The average torso angle must be between 30° and 50° (back of vertical); and

(iii) The average face-plane angle must be between 20° and 50° (back of vertical).

(5) *"HELP" Position.* Starting in a relaxed, face-up position of static balance, each subject brings the legs and arms in towards the body so as to attain the "HELP" position (a fetal position, but holding the head back). The lifejacket must not turn the subject face down in the water.

(e) *Jump test.* (1) Each test subject dons an uninflated lifejacket and with hands above head, jumps feet first, into the water from a height of 4.5 m (15 ft.). No second stage donning is allowed during this test and the lifejacket must—

(i) Inflate automatically, float the subject to the surface, and stabilize the body with the mouth out of the water;

(ii) Maintain its intended position on the wearer;

(iii) Not be damaged; and

(iv) Not cause injury to the wearer.

(2) The jump test in paragraph (e)(1) of this section is repeated using a lifejacket which has been fully inflated manually.

(3) The jump test in paragraph (e)(2) of this section is then conducted with one chamber deflated.This test is then repeated as many times as necessary to test the lifejacket with a different chamber deflated until each chamber has been tested in this manner.

Note: Before conducting these tests at the 4.5 m height, subjects should first do the test from heights of 1 m and 3 m to lessen the possibility of injury. It is suggested that subjects wear a long-sleeve cotton shirt to prevent abrasions when testing the device in the inflated condition and that the teeth should be tightly clenched together when jumping.

(f) *Water emergence*—(1) *Equipment.* A pool with a wooden platform at one side must be used for this test.The platform must be 300 mm (12 in.) above the water surface and must not float on the water. The platform must have a smooth painted surface. Alternatively, a

Coast Guard approved inflatable liferaft may be used in lieu of a platform.

(2) *Qualifying.* Each test subject enters the water wearing only a bathing suit and swims 25 m. The subject must then be able to emerge from the pool onto the platform using only his or her hands on the top of the platform as an aid and without pushing off of the bottom of the pool. Any subject unable to emerge onto the platform within 30 seconds is disqualified for this test. If less than 2/3 of the test subjects qualify, substitute subjects must be used.

(3) *Test.* Each qualified subject dons an inflated lifejacket, enters the water and swims 25 m. Afterward, at least 2/3 of the qualified subjects must then be able to climb out of the pool in the manner prescribed in paragraph (f)(2) of this section within 45 seconds while wearing the lifejacket. If marking on the lifejacket so indicates, and if the wearer can read the marking while the lifejacket is being worn, the subjects may deflate the device during the 45 second attempt.

(g) *Lanyard pull test and strength.* (1) An uninflated lifejacket is placed on a rigid metal test form built according to Figure 160.176–13(n)(2) and suspended vertically.

(2) The inflation handle of each manual inflation mechanism is attached to a force indicator. The force indicator is then used to activate each manual inflation mechanism separately. The force required to activate each mechanism is recorded. In each test the force must be between 25 and 70 N (5 and 15 lb.).

(3) A weight of 225 N (50 lb.) is in turn attached to the inflation handle of each manual inflation mechanism. The weight is then allowed to hang freely for 5 minutes from each manual inflation mechanism. The handle must not separate from the mechanism.

(h) *Temperature cycling tests.* (1) Three uninflated lifejackets, 2 packed and 1 unpacked, are maintained at room temperature (20 ± 3°C (68 + 6°F)) for 4 hours and then at a temperature of 65 ± 2°C (150 ± 5°F) for 20 hours. The lifejackets are then maintained at room temperature for at least 4 hours, after which they are maintained at a temperature of minus 30 ± 2 °C (−22 ± 5°F) for 20 hours. This cycle is then repeated once.

(2) Upon the completion of the conditioning in paragraph (h)(1) of this section all sealed or non-reusable packaging is removed from the two packed units. The lifejackets must show no functional deterioration after being inflated immediately after removal from the conditioning. The lifejackets must be inflated as follows:

(i) One unit which was packed during conditioning must fully inflate within 2 minutes using only oral inflation.

(ii) The other unit which was packed during conditioning must fully inflate within 45 seconds of submersion in water at 2 ± 2°C (37 ± 5°F) as a result of automatic inflation.

(iii) The unit which was unpacked during conditioning must fully inflate within 30 seconds of activation of the manual inflation mechanisms.

(3) The same 3 lifejackets used for the test in paragraph (h)(1) of this section are deflated and, with 2 repacked and 1 unpacked, are maintained at room temperature for 4 hours and then at a temperature of minus 30 ± 2°C (−22 ± 5°F) for 20 hours. The lifejackets are then stored at room temperature for at least 4 hours, after which they are maintained at a temperature of 65 ± 2°C (150 ± 5°F) for 20 hours. This cycle is then repeated once. The steps in paragraph (h)(2) of this section are then repeated, and the lifejackets must meet the criteria in that paragraph.

(i) [Reserved]

(j) *Buoyancy and inflation medium retention test.* A lifejacket which has been used in the tests in paragraph (h) of this section must be used for this test.

(1) *Equipment.* The following equipment is required for this test:

(i) A wire mesh basket that is large enough to hold the inflated lifejacket without compressing it, is designed not to allow the lifejacket to float free, and is heavy enough to overcome the buoyancy of the lifejacket.

(ii) A scale that is sensitive to ±13 g (0.5 oz.) and that has an error of less than ±13 g (0.5 oz.).

(iii) A test tank, filled with fresh water, that is large enough to hold the basket with its top 50 mm (2 in.) below the surface without the basket touching the tank.

(2) *Method.* One inflation chamber is inflated using its automatic inflation mechanism. The lifejacket is placed in the basket. The basket is then suspended from the scale and submerged in the test tank with the lifejacket and basket completely below the water surface. An initial reading of the scale is taken after 30 minutes and again after 24 hours. The buoyancy of the lifejacket is the submerged weight of the basket minus the submerged weight of the basket with the lifejacket inside. This test is repeated as many times as necessary until each chamber has been tested. On each chamber that does not have an automatic inflation mechanism the manual or oral inflation mechanism may be used.

(3) *Requirement.* The buoyancy of each inflation chamber must be within the tolerances specified in the plans and specifications for the lifejacket required by § 160.176–5(a)(2) of this Part. Each inflation chamber must retain at least 95% of its initial buoyancy after being submerged for 24 hours.

(k) *Uninflated floatation test.* A packed lifejacket, with all automatic inflation mechanisms disabled, is dropped from a height of 1 m (3 ft.) into fresh water. The lifejacket must remain floating on the surface of the water for at least 30 minutes. This test is repeated with an unpacked, uninflated lifejacket, with all automatic inflation mechanisms disabled.

(l) [Reserved]

(m) *Environmental tests.*—(1) *Salt spray exposure.* An uninflated lifejacket is subjected to 720 hours of salt spray as specified by ASTM B 117. The automatic inflation mechanism(s) must not be activated by the salt spray. The lifejacket is then inflated first using the automatic inflation mechanism(s) and then twice more using first the manual mechanisms and then the oral mechanisms. The lifejacket must show no functional deterioration.

(2) *Rain exposure.* An uninflated lifejacket is mounted on a rigid metal test form built according to Figure 160.176–13(n)(2). The test form must be vertical. Spray nozzles that deliver 0.05 mm of water per second (0.7 inch/hour) over the area of the lifejacket at a temperature between 2 and 16 °C (35 and 60 °F) and at a 45° angle below horizontal toward the lifejacket are mounted 1.5 m (4.5 ft.) above the base of the test form. There must be at least 4 nozzles evenly spaced around the lifejacket at a horizontal distance of 1 m from the center of the lifejacket and each nozzle must deliver water at the same rate. Water is then sprayed on the lifejacket for 1 hour. The lifejacket must not inflate during the test.

(n) *Tensile tests.* Two lifejackets that have been subjected to the tests in paragraph (h) of this section must be used for these tests.

(1) *Body tensile test.* (i) In this test one lifejacket must be fully inflated and the other deflated.

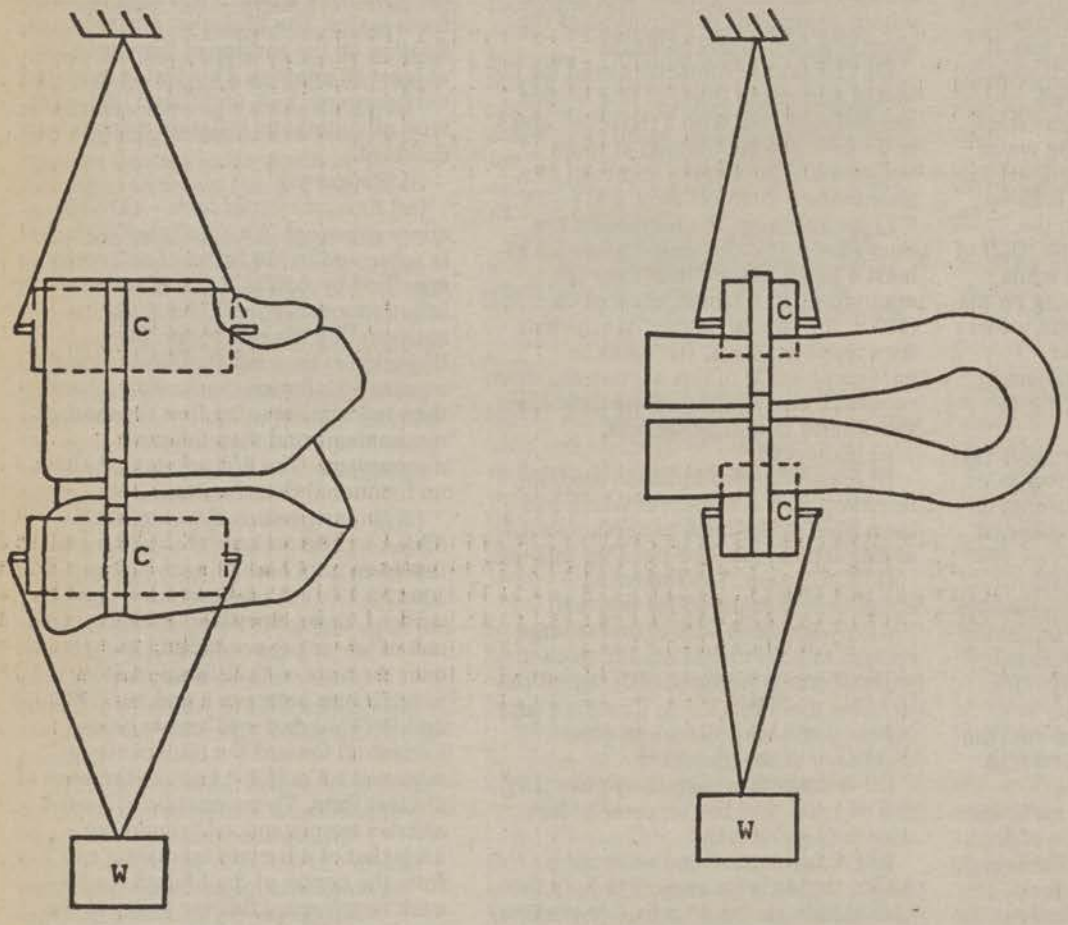
(ii) Two unconnected rigid cylinders are passed through the body portion of each lifejacket, or through the encircling body strap for yoke style devices, with one closure fastened and adjusted to its mid range, as shown in Figure 160.176–13(n)(1). Each cylinder must be 125 mm (5 inches) in diameter. The top cylinder is connected to a winch or pulley system. The bottom cylinder is connected to a test load which when combined with the weight of the lower cylinder and the linkage equals 325 kg

(720 lb.). The winch or pulley system lifts the top cylinder so the test load is raised off of its support. The test load is left suspended for 30 minutes.

(iii) There must be no functional deterioration of any component of either lifejacket during the test. Each friction type closure must not permit slippage of more than 25 mm (1 in.).

(iv) If a lifejacket has friction type closures, the test must be repeated immediately after the lifejacket has been immersed in water for a least 2 minutes.

(v) The test is repeated until each different type of closure is tested separately.



Vest style lifejacket

Yoke style lifejacket

C - Cylinder (5 inches in diameter)

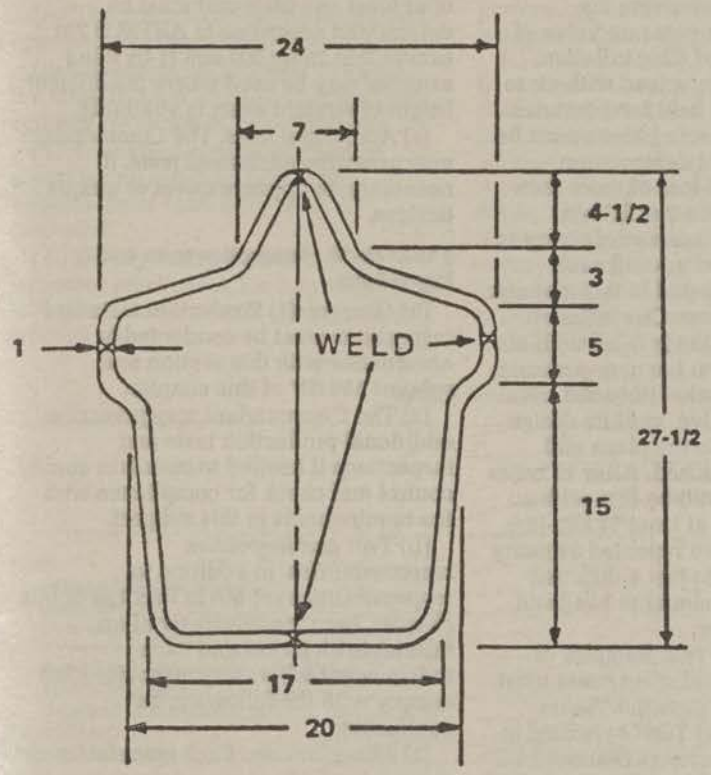
W - Test Weight

Figure 160.176-13(n)(1) Body Tensile Test Arrangement

II

(2) *Shoulder tensile test.* Each shoulder section of a lifejacket is subjected to this test separately. A fully inflated lifejacket, with all closures fastened, must be secured to a rigid metal test form built according to Figure 160.176–13(n)(2). A 2 ±¼ in. wide web is passed through the shoulder section of the lifejacket and is connected to a winch or pulley system. The bottom portion of the form is connected to a dead weight load which when combined

with the weight of the form and the linkage equals 90 kg. (200 lb.). The winch or pulley system is operated to raise the weight off of its support. The weight is left suspended for 30 minutes. There must be no functional deterioration of any component of the lifejacket during the test



Dimensions are in inches. Form fabricated from 1 inch diameter mild steel rod. All bend radii 1-1/2 inches

Figure 160.176-13(n)(2) Test Form

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II

(3) *Strength of attachment of inflation mechanism.* (i) A fully inflated lifejacket is secured to a rigid metal test form as in Figure 160.176–13(n)(2), and the pressure of each inflated chamber is measured. The top portion of the form is then connnected to a winch or pulley system. A 35 kg (75 lb.) weight is attached by a line to one of the inflation mechanisms as close as possible to the point of attachment on the lifejacket. The winch or pulley system is operated to raise the weight off of its support. The weight is left suspended for 5 minutes and then released. The inflation chamber to which the inflation mechanism is attached must not lose more than 3 kPa (0.4 psig) or 20% of its original pressure.

(ii) The test is paragraph (n)(3)(i) of this section is repeated until each type of inflation mechanism has been tested separately.

(iii) The test is then repeated as many additional times as necessary to test each joint in each type of inflation mechanism beyond its point of attachment to an inflation chamber. In each test the point of attachment must be as close as possible to the joint being tested.

(o) [Reserved]

(p) *Impact test.* (1) an uninflated lifejacket is secured to the test form shown in Figure 160.176–13(n)(2). The lifejacket, with the automatic inflation mechanism disabled, is secured to the form as it is intended to be worn. The lifejacket is accelerated to 25 m/s (50 mph) horizontally and is then dropped from a height of not more than 0.5 m (1.5 ft.) into the water in the following positions:

(i) Face down, shoulder forward.

(ii) Face down, shoulder back.

(iii) Back down, shoulder forward.

(iv) Back down, shoulder back.

(v) Left side down, shoulder forward.

(vi) Right side down, shoulder back.

(2) Following each impact, there must be no sign of functional deterioration, and the lifejacket must not come off of the test form. After each impact the closures may be readjusted as necessary.

(3) Following the six impacts, the lifejacket must fully inflate using only its oral inflation mechanisms. .

(4) The test in this paragraph is repeated on the same lifejacket after inflating, with manual inflation

mechanisms, all chambers that have those mechanism.

(q) *Flame exposure test.* A lifejacket that has been subjected to the tests in paragraph (h) of this section must be used for this test.

(1) *Equipment.* The following equipment is required for this test:

(i) A test pan 300 mm by 450 mm by 60 mm (12 in. by 18 in. by 2½ in.) containing 12 mm (½ in.) of water under 25 mm (1 in.) of N-heptane.

(ii) an arrangement to hold the lifejacket over the N-heptane.

(2) *Method.* The test is only conducted when there is no significant air movement other than that caused by the fire. The N-heptane is ignited and allowed to burn for 30 seconds. A lifejacket which has been fully inflated with air is then passed through the flames in an upright, forward, vertical, free-hanging position with the bottom of the lifejacket 240 mm C 9½ in.) above the top edge of the test pan. The lifejacket is exposed to the flames for 2 seconds.

(3) *Requirement.* The lifejacket must not burn or melt for more than 6 seconds after being removed from the flames. The lifejacket must remain inflated throughout the test. If the lifejacket sustains any visible damage other than discoloration after being exposed to the flames, the lifejacket must—

(i) pass the test in paragraph (e)(2) of this section, except that only one subject is used and the test is done six times; and

(ii) pass the tensile test in paragraph (n)(1) of this section, except that a weight of 245 kg (540 lb.) is used in lieu of the 325 kg (720 lb.) weight.

(r) *Solvent exposure test.* Lifejackets with their automatic inflation mechanisms disabled must be used for this test. Two uninflated lifejackets that have been subjected to the tests in paragraph (h) of this section are totally submerged in diesel fuel, grade No. 2–D as defined in ASTM D 975, for 24 hours. The lifejackets are then removed and the excess fuel removed. One lifejacket must fully inflate using only its manual inflation mechanisms and the other using only its oral inflation mechanisms. The lifejackets must show no functional deterioration as a result of the test.

(s) *Puncture test.* A fully inflated lifejacket is placed on a flat, level surface. A test point 4 mm (5/32 in.) in diameter tapering to a rounded point, 1 mm (3/64 in.) in diameter, is pressed against an inflation chamber of the lifejacket perpendicular to the surface of the chamber at a rate of 300 mm/minute (12 in./minute). The test point is applied until the inflation chamber is punctured or the chamber walls are touching each other. The force required to puncture the inflation chamber or make the chamber walls touch each other is recorded. The force required must exceed 30 N (7 lb.).

(t) *Inflation chamber tests*—(1) *Over-pressure test.* One lifejacket is used in this test. Before pressurizing the lifejacket, each over-pressure valve, if any, must be blocked. One inflation chamber is then pressurized with air to 70 kPa (10 psig) and held for 5 minutes. After the 5 minute period, there must be no sign of permanent deformation, damage, or pressure loss of more than 3.5 kPa (0.5 psig). This test is then repeated as many times as necessary to test a different chamber until each chamber has been tested in this manner.

(2) *Air retention test.* One inflation chamber of a lifejacket is filled with air until air escapes from the over-pressure valve or, if the lifejacket does not have an over-pressure valve, until its design pressure, as stated in the plans and specifications, is reached. After 12 hours the lifejacket must still be firm with an internal pressure of at least 14 kPa (2.0 psig). This test is then repeated as many times as necessary to test a different chamber until each chamber has been tested in this manner.

(u) *Seam strength test.* Samples of each type of structural sewn seam must be subjected to and pass the "Seam Strength (Sewability) Test" specified in Underwriters Laboratories Standard UL 1191 except that the breaking strength of each seam in the directions of both greater and lesser thread count must be at least 400 N (90 lb.).

(v) [Reserved]

(w) *Visual examination.* One complete lifejacket must be visually examined for compliance with the requirements of §§ 160.176–9 and 160.176–11 of this Part

(x) [Reserved]

(y) *Inflation chamber properties.* The tests in this paragraph must be run after successful completion of all other approval tests. The results of these tests will be used to check the quality of incoming lifejacket components and the production process. Test samples must come from one or more lifejackets that were each used in all of the tests in paragraphs (e), (j), (p), (s), and (t) of this section.

(1) *Grab breaking strength.* The grab breaking strength of chamber materials must be determined according to Method No. 5100 of Federal Test Method Standard 191A or ASTM D 751.

(2) *Tear strength.* The tear strength of chamber materials must be determined according to Method No. 5132 or 5134 of Federal Test Method Standard 191A or ASTM D 751.

(3) *Permeability.* The permeability of chamber materials must be determined according to ASTM D 1434 using CO_2 as the test gas.

(4) *Seam strength.* The seam strength of the seams in each inflation chamber of at least one lifejacket must be determined according to ASTM D 751 except that 25 by 200 mm (1 by 8 in.) samples may be used where insufficient length of straight seam is available.

(z) *Additional tests.* The Commandant may prescribe additional tests, if necessary, to approve novel or unique designs.

§ 160.176–15 Production tests and inspections.

(a) *General.* (1) Production tests and inspections must be conducted in accordance with this section and subpart 159.007 of this chapter.

(2) The Commandant may prescribe additional production tests and inspections if needed to maintain quality control and check for compliance with the requirements in this subpart.

(b) *Test and inspection responsibilities.* In addition to responsibilities set out in Part 159 of this chapter, each manufacturer of an inflatable lifejacket and each independent laboratory inspector must comply with the following, as applicable:

(1) *Manufacturer.* Each manufacturer must—

(i) Perform all required tests and examinations on each lifejacket lot before the independent laboratory inspector tests and inspects the lot;

(ii) Perform required testing of each incoming lot of inflation chamber material before using that lot in production;

(iii) Have procedures for maintaining quality control of the materials used, manufacturing operations, and the finished product;

(iv) Have a continuing program of employee training and a program for maintaining production and test equipment;

(v) Have an inspector from the independent laboratory observe the production methods used in producing the first lifejacket lot produced and observe any revisions made thereafter in production methods;

(vi) Admit the inspector and any Coast Guard representative to any place in the factory where work is done on lifejackets or component materials, and where completed lifejackets are stored; and

(vii) Allow the inspector and any Coast Guard representative to take samples of completed lifejackets or of

components materials for tests prescribed in this subpart.

(2) *Independent laboratory.* (i) An inspector may not perform or supervise any production test or inspection unless—

(A) The manufacturer has a current approval certificate; and

(B) The inspector has first observed the manufacturer's production methods and any revisions to those methods.

(ii) An inspector must perform or supervise all required tests and inspections of each lifejacket lot produced.

(iii) During each inspection, the inspector must check for noncompliance with the manufacturer's quality control procedures.

(iv) At least once each calendar quarter, the inspector must, as a check on manufacturer compliance with this section, examine the manufacturer's records required by § 160.176–17 of this Part and observe the manufacturer in performing each of the tests required by paragraph (h) of this section.

(c) *Lifejacket lots.* A lot number must be assigned to each group of lifejackets produced. No lot may exceed 1000 lifejackets. A new lot must be started whenever any change in materials or a revision to a production method is made, and whenever any substantial discontinuity in the production process occurs. Changes in lots of component materials must be treated as changes in materials. Lots must be numbered serially. The lot number assigned, along with the approval number, must enable the lifejacket manufacturer, by referring to the records required by this subpart, to determine who produced the components used in the lifejacket.

(d) *Samples.* (1) Samples used in testing and inspections must be selected at random. Sampling must be done only when all lifejackets or materials in the lot are available for selection.

(2) Each sample lifejacket selected must be complete, unless otherwise specified in paragraph (h) of this section.

(3) The inspector may not select the same samples tested by the manufacturer.

(4) The number of samples selected per lot must be at least the applicable number listed in Table 160.176–15A or Table 160.176–15B.

TABLE 160.176–15A.—MANUFACTURER'S SAMPLING PLAN

	Number of Samples Per Lot					
	Lot Size					
	1–100	101–200	201–300	301–500	501–750	751–1000
Tests:						
Inflation Chamber Materials	SEE NOTE (1)					
Seam Strength	1	1	2	2	3	4
Over-pressure [2] [3]	1	2	3	4	6	8
Air Retention	EVERY DEVICE IN THE LOT					
Buoyancy & Inflation Media Retention	1	2	3	4	6	8
Tensile Strength [4]	1	1	1	1	1	1
Detailed Product Examination	2	2	3	4	6	8
Retest Sample Size [2]	—	—	13	13	20	20
Final Lot Inspection:	EVERY DEVICE IN THE LOT					

[1] Samples must be selected from each lot of incoming material. The tests referenced in §§ 160.176–13(y)(1) through 160.176–13(y)(4) of this Part prescribe the number of samples to select.

[2] Samples selected for this test may not be the same samples selected for other tests.

[3] If any sample fails the over-pressure test, the number of samples to be tested in the next lot produced must be at least 2% of the total number of lifejackets in the lot or 10 lifejackets, whichever is greater.

[4] This test is required only when a new lot of materials is used and when a revised production process is used. However, the test must be run at least once every calendar quarter regardless of whether a new lot of materials or a revised process is started in that quarter.

TABLE 160.176–15B.—INSPECTOR'S SAMPLING PLAN

	Number of samples per lot					
	Lot size					
	1–100	101–200	201–300	301–500	501–750	751–1000
Tests:						
Over-pressure [1]	1	2	3	4	6	8
Air Retention	1	2	3	4	6	8
Buoyancy & Inflation Media Retention	1	2	3	4	6	8
Tensile Strength [2]	1	1	1	1	1	1
Waterproof marking	SEE NOTE (3) FOR SAMPLING					
Detailed Product Examination	2	2	2	3	3	3
Retest Sample Size [1]	10	10	13	13	20	20
Final Lot Inspection:	20	32	50	60	70	80

[1] Samples selected for this test may not be the same lifejackets selected for other tests.

[2] This test may be omitted if the manufacturer has previously conducted it on the lot and the inspector has conducted the test on a previous lot during the same calendar quarter.

[3] One sample of each means of marking on each type of fabric or finish used in lifejacket construction must be tested. This test is only required when a new lot of materials is used. However, the test must be run at least once every calendar quarter regardless of whether a new lot of materials is started in that quarter.

(e) *Accept/reject criteria: manufacturer testing.* (1) A lifejacket lot passes production testing if each sample passes each test.

(2) In lots of 200 or fewer lifejackets, the lot must be rejected if any sample fails one or more tests.

(3) In lots of more than 200 lifejackets, the lot must be rejected if—

(i) One sample fails more than one test;

(ii) More than one sample fails any test or combination of tests; or

(iii) One sample fails one test and in redoing that test with the number of samples specified for retesting in Table 160.176–15A, one or more samples fail the test.

(4) A rejected lifejacket lot may be retested only if allowed under paragraph (k) of this section.

(5) In testing inflation chamber materials, a lot is accepted only if the average of the results of testing the minimum number of samples prescribed in the reference tests in § 160.176–13(y) of this Part is within the tolerances specified in § 160.176–8(c)(1) of this Part. A rejected lot may not be used in production.

(f) *Accept/reject criteria: independent laboratory testing.* (1) A lot passes production testing if each sample passes each test.

(2) A lot must be rejected if—

(i) One sample fails more than one test;

(ii) More than one sample fails any test or combination of tests; or

(iii) One sample fails one test and in redoing that test with the number of samples specified for retesting in Table 160.176–15B, one or more samples fail the test.

(3) A rejected lot may be retested only if allowed under paragraph (k) of this section.

(g) *Facilities and equipment*—(1) *General.* The manufacturer must provide the test equipment and facilities described in this section for performing production tests, examinations, and inspections.

(2) *Calibration.* The manufacturer must have the calibration of all test equipment checked at least every six months by a weights and measures agency or the equipment manufacturer, distributor, or dealer.

(3) *Equipment.* The following equipment is required:

(i) *A sample basket* for buoyancy tests. It must be made of wire mesh and be of sufficient size and durability to securely hold a completely inflated lifejacket under water without compressing it. The basket must be heavy enough or be sufficiently weighted to submerge when holding an inflated test sample.

(ii) *A tank filled with fresh water* for buoyancy tests. The height of the tank must be sufficient to allow a water depth of 5 cm (2 inches) minimum between the top of the basket and water surface when the basket is not touching the bottom. The length and width of the tank must be sufficient to prevent each submerged basket from contacting another basket or the tank sides and bottom. Means for locking or sealing the tank must be provided to prevent disturbance of any samples or a change in water level during testing.

(iii) *A scale* that has sufficient capacity to weigh a submerged basket for buoyancy tests. The scale must be sensitive to 13 g (0.5 oz.) and must not have an error exceeding ±13 g (0.5 oz.).

(iv) *Tensile test equipment* that is suitable for applying pulling force in conducting body strap assembly strength subtests. The equipment assembly may be (A) a known weight and winch, (B) a scale, winch, and fixed anchor, or (C) a tensile test machine that is capable of holding a given tension. The assembly must provide accuracy to maintain a pulling force within ±2 percent of specified force. Additionally, if the closed loop test method in § 160.176–13(h)(1) of this Part is used, two cylinders of the type described in that method must be provided.

(v) *A thermometer* that is sensitive to 0.5 °C (1 °F) and does not have an error exceeding ±0.25 °C (0.5 °F).

(vi) *A barometer* that is capable of reading mm (inches) of mercury with a sensitivity of 1 mm (0.05 in.) Hg and an error not exceeding ±5 mm (0.02 in.) Hg.

(vii) *A regulated air supply* that is capable of supplying the air necessary to conduct the tests specified in paragraphs (h)(4) and (h)(5) of this section.

(viii) *A pressure gauge* that is capable of measuring air pressure with a sensitivity of 1 kPa (0.1 psig) and an error not exceeding ±0.5 kPa (0.05 psig).

(ix) *A torque wrench* if any screw fasteners are used. The wrench must be sensitive to, and have an error of less than, one half the specified tolerance for the torque values of the fasteners.

(4) *Facilities:* The manufacturer must provide a suitable place and the necessary apparatus for the inspector to use in conducting or supervising tests. For the final lot inspection, the manufacturer must provide a suitable working environment and a smooth-top table for the inspector's use.

(h) *Production tests and examinations.*—(1) *General.* (i) Samples used in testing must be selected according to paragraph (d) of this section.

(ii) On each sample selected—

(A) The manufacturer must conduct the tests in paragraphs (h)(2) through (h)(8) of this section; and

(B) The independent laboratory inspector must conduct or supervise the tests in paragraphs (h)(4) through (h)(9) of this section.

(iii) Each individual test result must, in addition to meeting the requirements in this paragraph, meet the requirements, if any, set out in the approved plans and specifications required by § 160.176–5(a)(2) of this Part.

(2) *Inflation chamber materials.* Each sample must be tested according to §§ 160.176–13(y)(1) through 160.176–13(y)(3) of this Part. The average and individual results of testing the minimum number of samples prescribed by § 160.176–13(y) of this Part must comply with the requirements in § 160.176–8(c)(1) of this Part.

(3) *Seam strength.* The seams in each inflation chamber of each sample must be tested according to § 160.176–13(y)(4) of this Part. The results for each inflation chamber must be at least 90% of the results obtained in approval testing.

(4) *Over-pressure.* Each sample must be tested according to and meet § 160.176–13(t)(1) of this Part.

(5) *Air retention.* Each sample must be tested according to and meet § 160.176–13(t)(2) of this Part.

(6) *Buoyancy and inflation medium retention.* Each sample must be tested according to and meet § 160.176–13(j) of this part. Each buoyancy value must fall within the tolerances specified in the approved plans and specifications.

(7) *Tensile strength.* Each sample must be tested according to and meet § 160.176–13(n) of this Part.

(8) *Detailed product examination.* Each sample lifejacket must be disassembled to the extent necessary to determine compliance with the following:

(i) All dimensions and seam allowances must be within tolerances prescribed in the approved plans and specifications required by § 160.176–5(a)(2) of this part.

(ii) The torque of each screw type mechanical fastener must be within its tolerance as prescribed in the approved plans and specifications.

(iii) The arrangement, markings, and workmanship must be as specified in the approved plans and specifications and this subpart.

(iv) The lifejacket must not otherwise be defective.

(9) *Waterproof marking test.* Each sample is completely submerged in fresh water for a minimum of 30 minutes, and them removed and immediately placed on a hard surface. The markings are vigorously rubbed with the fingers for 15 seconds. If the printing becomes illegible, the sample is rejected.

(i) [Reserved]

(j) *Final lot examination and inspection.*—(1) *General.* On each lifejacket lot that passes production testing, the manufacturer must perform a final lot examination and an independent laboratory inspector must

perform a final lot inspection. Samples must be selected according to paragraph (d) of this section. Each final lot examination and inspectin must show—

(i) First quality workmanship;

(ii) That the general arrangement and attachment of all components such as body straps, closures, inflation mechanisms, tie tapes, drawstrings, etc. are as specified in the approved plans and specifications; and

(iii) Compliance with the marking requirements in § 160.176–23 of this Part.

(2) *Accept/reject criteria.* Each nonconforming lifejacket must be rejected. If three or more nonconforming lifejackets are rejected for the same kind of defect, lot examination or inspection must be discontinued and the lot rejected.

(3) *Manufacturer examination.* This examination must be done by a manufacturer's representative who is familiar with the approved plans and specifications required by § 160.176–5(a)(2) of this Part, the functioning of the lifejacket and its components, and the production testing procedures. This person must not be responsible for meeting production schedules or be supervised by someone who is. This person must prepare and sign the record required by § 159.007–13(a) of this chapter and § 160.176–17(b) of this part.

(4) *Independent laboratory inspection.* (i) The inspector must discontinue lot inspection and reject the lot if observation of the records for the lot or of individual lifejackets shows noncompliance with this section or the manufacturer's quality control procedures.

(ii) An inspector may not perform a final lot inspection unless the manufacturer has a current approval certificate.

(iii) If the inspector rejects a lot, the Commandant must be advised immediately.

(iv) The inspector must prepare and sign the inspection record required by § 159.007–13(a) of this chapter and § 160.176–17(b) of this Part. If the lot passes, the record must also include the inspector's certification to that effect and a certification that no evidence of noncompliance with this section was observed.

(v) If the lot passes, each lifejacket in the lot must be plainly marked with the words, "Inspected and Passed, (Date), (Inspection Laboratory ID)." This marking must be done in the presence of the inspector. The marking must be permanent and waterproof. The stamp which contains the marking must be kept in the independent laboratory's custody at all times.

(k) *Disposition of rejected lifejacket lot or lifejacket.* (1) A rejected lifejacket lot may be resubmitted for testing, examination or inspection if the manufacturer first removes and destroys each defective lifejacket or, if authorized by the Commandant, reworks the lot to correct the defect.

(2) Any lifejacket rejected in a final lot examination or inspection may be resubmitted for examination or inspection if all defects have been corrected and reexamination or reinspection is authorized by the Commandant.

(3) A rejected lot or rejected lifejacket may not be sold or offered for sale under representation that it meets this subpart or that it is Coast Guard approved.

§ 160.176–17 Manufacturer records.

(a) Each manufacturer of inflatable lifejackets must keep the records required by § 159.007–13 of this chapter except that they must be retained for at least 120 months after the month in which the inspection or test was conducted.

(b) Each record required by § 159.007–13 of this chapter must also include the following information:

(1) For each test, the serial number of the test instrument used if there is more than one available.

(2) For each test and inspection, the identification of the samples used, the lot number, the approval number, and the number of lifejackets in the lot.

(3) For each lot rejected, the cause for rejection, any corrective action taken, and the final disposition of the lot.

(c) The description or photographs of procedures and apparatus used in testing is not required for the records prescribed in § 159.007–13 of this chapter as long as the manufacturer's procedures and apparatus meet the requirements of this subpart.

(d) Each manufacturer of inflatable lifejackets must also keep the following records:

(1) Records for all materials used in production including the following:

(i) Name and address of the supplier.

(ii) Date of purchase and receipt.

(iii) Lot number.

(iv) Certification meeting § 160.176–8(a)(3) of this part.

(2) A copy of this subpart.

(3) Each document incorporated by reference in § 160.176–4 of this Part.

(4) A copy of the approved plans and specifications required by § 160.176–5(a)(2) of this part.

(5) The approval certificate.

(6) Calibration of test equipment, including the identity of the agency performing the calibration, date of calibration, and results.

(7) A listing of current and formerly approved servicing facilities.

(e) The records required by paragraph (d)(1) of this section must be kept for at least 120 months after preparation. All other records required by paragraph (d) of this section must be kept for at least 60 months after the lifejacket approval expires or is terminated.

§ 160.176–19 Servicing.

(a) *General.* This section contains requirements for servicing facilities, manuals, training, guidelines, and records. Other regulations in this chapter require inflatable lifejackets to be serviced at approved facilities at 12 month intervals.

(1) Each manufacturer of an approved inflatable lifejacket must provide one or more Coast Guard approved facilities for servicing those lifejackets. The manufacturer must notify the Commandant whenever an approved facility under its organization no longer provides servicing of a lifejacket make and model listed in the guidelines required by paragraph (d) of this section.

(2) Each manufacturer of an approved inflatable lifejacket must make replacement parts available to Coast Guard approved independent servicing facilities.

(b) *Servicing facilities.* Each Coast Guard approved servicing facility must meet the requirements of this paragraph and paragraph (d) of this section in order to receive and keep its approval for each make and model of lifejacket. Approval is obtained according to § 160.176–5(c) of this Part.

(1) Each servicing facility must conduct lifejacket servicing according to its servicing guidelines and follow the procedures in the service manual required by this section.

(2) Each servicing facility must have a suitable site for servicing which must be clean, well lit, free from excessive dust, drafts, and strong sunlight, and have appropriate temperature and humidity control as specified in the service manual.

(3) Each servicing facility must have the appropriate service, repair, and test equipment and spare parts for performing required tests and repairs.

(4) Each servicing facility must have a current manufacturer's service manual for each make and model of lifejacket serviced.

(5) A servicing facility may have more than one servicing site provided that each site meets the requirements of paragraph (b)(2) of this section.

(6) Each servicing facility must be inspected at intervals not exceeding six

months by an accepted independent laboratory, and a report of the inspections must be submitted to the Commandant at least annually. The report must contain enough information to show compliance with paragraphs (b)(1) through (4) of this section and paragraph (d) of this section. Where a facility uses more than one site the report must show compliance at each site at least biennially.

(c) *Service manual.* (1) Each manufacturer of an approved inflatable lifejacket must prepare a service manual for the lifejacket. The service manual must be approved by the Commandant according to § 160.176–5(b) of this part.

(2) The manufacturer must make the service manual, service manual revisions, and service bulletins available to each approved servicing facility.

(3) Each service manual must contain the following:

(i) Detailed procedures for inspecting, servicing, and repackaging the lifejacket.

(ii) A list of approved replacement parts and materials to be used for servicing and repairs, if any.

(iii) A requirement to mark the date and servicing facility name on each lifejacket serviced.

(iv) Frequency of servicing.

(v) Any specific restrictions or special procedures prescribed by the Coast Guard or manufacturer.

(4) Each service manual revision and service bulletin which authorizes the modification of a lifejacket, or which affects a requirement under this subpart, must be approved by the Commandant. Other revisions and service bulletins are not required to be approved, but a copy of each must be sent to the Commandant when it is issued. At least once each year, the manufacturer must provide to the Commandant and to each servicing facility approved to service its lifejackets a bulletin listing each service manual revision and bulletin in effect.

(d) *Servicing facilities guidelines.* Each servicing facility must have written guidelines that include the following:

(1) Identification of each make and model of lifejacket which may be serviced by the facility as well as the manual and revision to be used for servicing.

(2) Identification of the person, by title or position, who is responsible for the servicing program.

(3) Training and qualifications of servicing technicians.

(4) Provisions for the facility to retain a copy of its current letter of approval from the Coast Guard at each site.

(5) Requirements to—

(i) Ensure each inflatable lifejacket serviced under its Coast Guard approval is serviced in accordance with the manufacturer's service manual;

(ii) Keep servicing technicians informed of each approved servicing manual revision and bulletin and ensure servicing technicians understand each change and new technique related to the lifejackets serviced by the facility;

(iii) Calibrate each pressure gauge, weighing scale, and mechanically-operated barometer at intervals of not more than one year;

(iv) Ensure each inflatable lifejacket serviced under the facility's Coast Guard approval is serviced by or under the supervision of a servicing technician who meets the requirements of item (3) of this paragraph;

(v) Specify each make and model of lifejacket it is approved to service when it represents itself as approved by the U.S. Coast Guard; and

(vi) Not service any lifejacket for a U.S. registered commercial vessel, unless it is approved by the U.S. Coast Guard to service the make and model of lifejacket.

(e) *Servicing records.* Each servicing facility must maintain records of all completed servicing. These records must be retained for at least 5 years after they are made, be made available to any Coast Guard representative and independent laboratory inspector upon request, and include at least the following:

(1) Date of servicing, number of lifejackets serviced, lot identification, approval number, and test results data for the lifejackets serviced.

(2) Identification of the person conducting the servicing.

(3) Identity of the vessel receiving the serviced lifejackets.

(4) Date of return to the vessel.

§ 160.176–21 User manuals.

(a) The manufacturer must develop a user's manual for each model of inflatable lifejacket. The content of the manual must be provided for approval according to §§ 160.176–5(a)(3)(v) and 160.176–5(b) of this Part.

(b) A user's manual must be provided with each lifejacket except that only five manuals need be provided to a single user vessel if more than five lifejackets are carried on board.

(c) Each user's manual must contain in detail the following:

(1) Instructions on use of the lifejacket and replacement of expendable parts.

(2) Procedures for examining serviceability of lifejackets and the frequency of examination.

(3) Pages for logging on board examinations.

(4) Frequency of required servicing at approved servicing facilities.

(5) Instructions, if any, on proper stowage.

(6) Procedures for getting the lifejackets repaired by a servicing facility or the manufacturer.

(7) Procedures for making emergency repairs on board.

(8) Any specific restrictions or special instructions.

§ 160.176–23 Marking.

(a) *General.* Each inflatable lifejacket must be marked with the information required by this section. Each marking must be waterproof, clear, and permanent. Except as provided elsewhere in this subpart, each marking must be readable from a distance of three feet.

(b) *Prominence.* Each marking required in paragraph (d) of this section, except vital care and use instructions, if any, must be less prominent and in smaller print than markings required in paragraph (c) of this section. Each optional marking must be significantly less prominent and smaller than required markings. The marking "ADULT" must be in at least 18 mm (¾ inch) high bold capital lettering. If a lifejacket is stored in a package, the package must also have the marking "ADULT" or this marking must be easily visible through the package.

(c) *Text.* Each inflatable lifejacket must be marked with the following text in the exact order shown:

ADULT—For a person weighing more than 90 pounds.

Type V PFD—Approved for use on *(see paragraph (e) of this section for exact text to be used here)* in lieu of *(see paragraph (f) of this section for exact text to be used here).*

This lifejacket must be serviced, stowed, and used in accordance with *(insert description of service manual and user's manual).*

When fully inflated this lifejacket provides a minimum buoyant force of *(insert the design buoyancy in lb.).*

(d) *Other Information.* Each lifejacket must also be marked with the following information below the text required by paragraph (c) of this section:

(1) U.S. Coast Guard Approval No. *(insert assigned approval number).*

(2) Manufacturer's or private labeler's name and address.

(3) Lot Number.

(4) Date, or year and calendar quarter, of manufacture.

(5) Necessary vital care or use instructions, if any, such as the following:

(i) Warning against dry cleaning.

(ii) Size and type of inflation medium cartridges required.

(iii) Specific donning instructions.

(3) *Approved applications.* The text to be inserted in paragraph (c) of this section as the approved use will be one or more of the following as identified by the Commandant on the approval certificate issued according to § 159.005–13(a)(2) of this chapter:

(1) The name of the vessel.

(2) The type of vessel.

(3) Specific purpose or limitation approved by the Coast Guard.

(f) *Type equivalence.* The exact text to be inserted in paragraph (c) of this section as the approved performance type will be one of the following as identified by the Commandant on the approval certificate:

(1) Type I PFD.

(2) Type V PFD—*(insert exact text of additional description noted on the approval certificate).*

Dated: October 23, 1989.

J.D. Sipes,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 89–28752 Filed 12–4–89; 8:45 am]

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federal register

Tuesday
December 5, 1989

Part IV

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Parts 15 and 52
Federal Acquisition Regulation (FAR); Solicitation Provisions for Negotiated Construction Contracts; Proposed Rule

Federal Register

Part IV

Department of Defense
General Services
Administration
National Aeronautics and
Space Administration

48 CFR Parts 15 and 52
Federal Acquisition Regulation (FAR);
Determination Procedure for Negotiated
Construction Contracts Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 15 and 52

Federal Acquisition Regulation (FAR); Solicitation Provisions for Negotiated Construction Contracts

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 considering revising the Federal Acquisition Regulation (FAR) to prescribe the solicitation provision at 52.215–39, Preparation of Offers-Construction, for use in all negotiated construction solicitation in lieu of the provision at 52.215–13, Preparation of Offers, prescribed in 15.407(d)(1). Alternate I is added to the provision at 52.215–16, Contract Award, prescribe in 15.407(d)(4). The provision at FAR 52.215–39, Preparation of Offers-Construction, prescribed in 15.407(i), is also added.

DATE: Comments should be submitted to the FAR Secretariat at the address shown below on or before February 5, 1990 to be considered in the formulation of a final rule. Consistent with our efforts to expedite the rulemaking process, comments received after the date specified may not be considered.

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 89–78 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 89–78.

SUPPLEMENTARY INFORMATION:

A. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., because it merely supplies instructions to prospective offerors. However, comments received from small entities concerning the affected sections of the FAR will be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite section 89–610 (FAR Case 89–78) in correspondence.

B. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping 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 Parts 15 and 52

Government procurement.

Dated: November 27, 1989.

Alberta A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, it is proposed that 48 CFR parts 15 and 52 be amended as set forth below:

1. The authority citation for 48 CFR parts 15 and 52 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).

PART 15—CONTRACTING BY NEGOTIATION

2. Section 15.407 is amended by revising paragraphs (d)(1) through (d)(4) and by adding paragraph (k) to read as follows:

15.407 Solicitation provisions.

* * * * *

(d) The contracting officer shall—

(1) Insert in RFP's for other than construction the provision at 52.215–13, Preparation of Offers;

(2) Insert in RFP's the provision at 52.215–14, Explanation to Prospective Offerors;

(3) Insert in RFP's the provisions at 52.215–15, Failure to Submit Offer; and

(4) Insert in RFP's for other than construction the provision at 52.215–16, Contract Award. If the RFP is for construction, the contracting officer shall use the provision with its Alternate I.

* * * * *

(k) The contracting officer shall insert in RFP's for construction the provision at 52.215–39, Preparation of Offers—Construction.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 52.215–16 is amended by adding Alternate I following the clause to read as follows:

52.215–16 Contract award.

* * * * *

Alternate I (NOV 1989). In accordance with the prescription in 15.407(d)(4), substitute the following for paragraph (d) of the basic provision:

(d) The Government may accept any item or combination of items, unless doing so is precluded by a restrictive limitation in the solicitation or the offer.

4. Section 52.215–39 is added to read as follows:

52.215–39 Preparation of offers—construction.

As prescribed in 15.407(k), insert the following provision:

Preparation of Offers—Construction (Nov 1989)

(a) Offers must be (1) submitted on the forms furnished by the Government or on copies of those forms, and (2) manually signed. The person signing an offer must initial each erasure or change appearing on any offer form.

(b) The offer form may require offerors to submit offer prices for one or more items on various bases, including—

(1) Lump sum offer;

(2) Alternate prices;

(3) Units of construction; or

(4) Any combination of subparagrahs (b)(1) through (b)(3) of this subsection.

(c) If the solicitation requires an offer on all items, failure to do so will disqualify the offer. If an offer on all items is not required, offerors should insert the words "no offer" in the space provided for any item on which no price is submitted.

(d) Alternate offers will not be considered unless this solicitation authorizes their submission.

(End of provision.)

[FR Doc. 89–28368 Filed 12–4–89; 8:45 am]

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H.R. 2748 / Pub. L. 101–193

Intelligence Authorization Act, Fiscal Year 1990. (Nov. 30, 1989; 103 Stat. 1701; 15 pages) Price: $1.00

H.R. 3660 / Pub. L. 101–194

Ethics Reform Act of 1989. (Nov. 30, 1989; 103 Stat. 1716; 68 pages) Price: $2.00

In the List of Public Laws printed in the **Federal Register** on December 1, 1989, Pub. L. 101–183 and Pub. L. 101–184 were incorrectly printed. They should read as follows:

H.J. Res. 393 / Pub. L. 101–183

To grant the consent of Congress to the boundary change compact between South Dakota and Nebraska. (Nov. 28, 1989; 103 Stat. 1328; 6 pages) Price: $1.00

S. 618 / Pub. L. 101–184

To commemorate the contributions of Senator Clinton P. Anderson to the establishment of the National Wilderness Preservation System, and for other purposes. (Nov. 28, 1989; 103 Stat. 1334; 2 pages) Price: $1.00