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

WHO: The Office of the Federal Register.

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

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

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

WASHINGTON, DC

WHEN: May 24, at 9:00 a.m.
WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington DC.
RESERVATIONS: 202–523–5240.

MINNEAPOLIS, MN

WHEN: June 18, at 1:00 p.m.
WHERE: Bishop Henry Whipple Federal Building, Room 570, Ft. Snelling, MN.
RESERVATIONS: 1–800–366–2998

KANSAS CITY, MO

WHEN: June 19, at 9:00 a.m.
WHERE: Federal Building, 601 East 12th Street, Room 110, Kansas City, MO.
RESERVATIONS: 1–800–735–8004

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

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1630

Privacy Act Regulations

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Final rule.

SUMMARY: The Executive Director of the Federal Retirement Thrift Investment Board (Board) is publishing in Part 1630, final Privacy Act regulations. These regulations describe notification, access and amendment of records procedures for records in systems of records operated by the Board. These procedures include within their purview all records of the Thrift Savings Plan.

EFFECTIVE DATE: May 7, 1990.

FOR FURTHER INFORMATION CONTACT: John J. O'Meara, (202) 523–6367. Federal Retirement Thrift Investment Board, 805 Fifteenth Street, NW., Washington, DC 20005.

SUPPLEMENTARY INFORMATION: The Executive Director of the Federal Retirement Thrift Investment Board (the "Board") is publishing in part 1630 final regulations governing procedures for processing requests for notification, access, and amendment of records under the Privacy Act (5 U.S.C. 552a). Initial, interim Privacy Act regulations were published for comment at 52 FR 8053 (March 16, 1987).

The Board was established by Pub. L. 99–335 (June 6, 1986), the Federal Employees' Retirement System Act of 1986 (FERSA) (codified principally at 5 U.S.C. 8401–8479), as amended. Pursuant to FERSA the Board operates the Thrift Savings Plan (TSP), a tax deferred retirement plan for Federal employees. The Board is an independent establishment of the Federal Government located in Washington, DC. It operates systems of records under the Privacy Act similar to those operated by other Federal agencies, e.g., payroll and personnel records of Federal employees, EEO and grievance files, Board Members' biographical files and financial disclosure reports. In addition, the Board maintains a Government-wide system of records on all current and certain former Federal employees, Members of Congress, Justices, judges, magistrates and other covered personnel who are or were participants of the TSP. The Board's recordkeeper for Thrift Savings Plan records may be a private contractor or a Federal agency. In either case, the recordkeeper maintains Thrift Savings Plan records in order to accomplish a Board function and is subject to the Privacy Act. At present, the Board's recordkeeper is the National Finance Center, Department of Agriculture, New Orleans, LA 70161–1500.

Only one comment was received pursuant to the Board's request for comments. The comment, received from a Federal agency, suggested an additional routine use. The Board accepted the suggestion and discusses it in the preamble to the system notice for FRTIB–1, Thrift Savings Plan records, which will be found elsewhere in this issue of the **Federal Register**.

A number of revisions were made to the interim Privacy Act regulations based upon the Board's experience in carrying out its primary function of operating the Thrift Savings Plan. The following Redesignation Table is provided in an effort to aid the reader in following the revisions.

REDESIGNATION TABLE

Interim regulation section	Final regulation section	Action
1630.1	1630.1	No change.
1630.2	1630.2	Revised.
	1630.3(a)	New.
1630.3	1630.3(b)	Same.
1630.4 and 1630.5.	1630.4	Merged and expanded.
1630.6	1630.5	Same, renumbered.
1630.7	1630.6	Renumbered and expanded.
1630.8	1630.7	Renumbered and expanded.
1630.9	1630.8	Renumbered and expanded.
1630.10	1630.9	Renumbered.
1630.11	1630.10	Renumbered.
1630.11(a)(3)		Deleted.
1630.12	1630.11	Renumbered and expanded.
1630.13	1630.12	Renumbered.
1630.14	1630.13	Renumbered.
1630.15	1630.14	Renumbered.
1630.16	1630.15	Renumbered.
1630.17	1630.16	Renumbered and revised.
	1630.17	New.
1630.18	1630.18	Same.

The Board's section-by-section description of the revisions to the interim regulations follows. Initial references are to the final regulations:

1. *Section 1630.2.* Definitions of "Thrift Savings Plan" and "TSP records" have been added.

2. *Section 1630.3.* A subsection (a) was added setting forth the requirement that a new or revised system will be published in the **Federal Register** for comment. Interim § 1630.3 was redesignated as subsection (b).

3. *Section 1630.4.* Interim §§ 1630.4 and .5 were combined and included in § 1630.4 in order to simplify the regulatory procedure. Section 1630.4 was rewritten to describe separately and in detail the notification and access provisions for TSP records. Access provisions for TSP records are written in chart form for the sake of clarity. A dichotomy exists in some cases between current Federal employees and former employees who are still participants in the TSP with respect to the Privacy Act contact point. This is due to the fact that for former employees there are no contributions flowing from the employing agency to the Board's recordkeeper, nor may they receive TSP loans. An explanation of the authority of the employing Federal agency over current Federal employees is set forth in new § 1630.11(a)(5). The revised regulation also authorizes telephone inquiries to the TSP Service Office. Requests for an accounting of disclosures of TSP records made to third parties under 5 U.S.C. 552a(c) are denoted as requests for "disclosure history." The nomenclature was changed in order to avoid confusion with the language used by accounting

firms and others who audit TSP records on a regular basis. Furthermore, a subsection (a)(2) was added to provide a three-day time limit for the Board to transfer an incorrectly addressed request to the Board's recordkeeper. Section (a)(3) was inserted to advise subjects of TSP records that there will not be a disclosure history (accounting) made of a disclosure to an auditing or accounting firm contracted by the Board in accordance with FERSA. Such contractors are Board employees under 5 U.S.C. 552a(m) and disclosures to such entities need not be documented under 5 U.S.C. 552a(c). The procedures for Privacy Act requests for non-TSP records were not affected by these revisions and are not included in the chart.

4. *Section 1630.6.* Interim § 1630.7 was renumbered and revised to set forth separate procedures for TSP and non-TSP records.

5. *Section 1630.7.* Revised and renumbered. A subsection (d) was added to Interim § 1630.8 to provide for identification procedures when making a telephonic inquiry to the TSP Service Office. A participant must give his name, Social Security number and Personal Identification Number (PIN). If the PIN is lost or unavailable, a participant must provide other identifying information.

6. *Section 1630.10.* Interim § 1630.11 was renumbered. Interim § 1630.11(a)(3) was deleted. The Board's policy of not providing participants with additional copies of the semiannual statement has been reversed. The Board will provide a participant with a copy of a prior semiannual statement.

7. *Section 1630.11.* Interim § 1630.12 was renumbered and expanded. New § 1630.11 provides separately and in detail the procedure for amendment of records in the TSP system of records. The procedure was drafted in chart form for the sake of clarity. Participants must make a request to the Board's recordkeeper or the former employing agency depending upon the type of record to be amended and the participant's status as a current or separated Federal employee. The Board has control over earnings, loan prepayments and interfund transfers. These actions occur between the Board and the participant directly. Agency and participant contributions, adjustments to these, and payment of loan installments by payroll allotment are transactions generated between the participant and the employing agency and forwarded to the Board for posting. Errors in these latter transactions are generally corrected by the employing agency. The same is true of personal information held by the employing agency and transmitted to the Board (*e.g.*, Social Security number or retirement code). Subsection (a)(3) was added to set forth Board policy that requests to amend TSP records which are money claims will be determined under the Board's Error Correction regulations, found at 5 CFR part 1605, and not under §§ 1630.12–1630.14 of these regulations. The Board intends that there will be one avenue of administrative exhaustion for TSP money claims. The Board's Error Correction regulations comport with the requirements of the Privacy Act. Subsection (a)(4) was added to make clear that the Board, its recordkeeper and the employing or former employing agency could correct errors *sua sponte* without a request for correction. Procedures for non-TSP records did not change and are not included in the chart.

8. Section 1630.11a(5) was added to explain that while the Board operates a TSP system of records, it does not have sole control of the information going into those records. Thus, while the Board is able to change certain TSP records, it is unable to change others which are in the control of employing Federal agencies. This situation is the result of the flow of financial and personal information from employing Federal agencies to the TSP.

9. *Section 1630.16.* Interim § 1630.17 was renumbered and revised to increase from three to ten the number of pages copied without charge. The cost of photocopying was increased to $.15 as that is the fee for FOIA copying costs. Copies made for access purposes are now to be charged, except for the first ten pages. It is assumed that most Privacy Act requests will be for TSP records which are fewer than ten pages.

10. *Section 1630.17.* This is a new section, added to make clear that other Federal agencies may request information from the Board in order to reconcile TSP accounts and that the Board may, in appropriate cases, charge for such services. The Board has a fiduciary responsibility to act solely in the best interests of the participants and beneficiaries of the TSP and failure to charge in appropriate circumstances could be construed as violating that fiduciary responsibility.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities. They will affect only Federal employees or former Federal employees who make Privacy Act requests.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act of 1980.

List of Subjects in 5 CFR Part 1630

Administrative practice and procedure, Privacy, Records.

Federal Retirement Thrift Investment Board.

Dated: April 27, 1990.

Francis X. Cavanaugh,

Executive Director.

Part 1630 of title 5 is revised as follows:

PART 1630—PRIVACY ACT REGULATIONS

Sec.

1630.1 Purpose and scope.
1630.2 Definitions.
1630.3 Publication of systems of records maintained.
1630.4 Request for notification and access.
1630.5 Granting access to a designated individual.
1630.6 Action on request.
1630.7 Identification requirements.
1630.8 Access of others to records about an individual.
1630.9 Access to the history accounting of disclosures from records.
1630.10 Denials of access.
1630.11 Requirements for requests to amend records.
1630.12 Action on request to amend a record.
1630.13 Procedures for review of determination to deny access to or amendment of records.
1630.14 Appeals process.
1630.15 Exemptions.
1630.16 Fees.
1630.17 Federal agency requests.
1630.18 Penalties.

Authority: 5 U.S.C. 552a.

§ 1630.1 Purpose and scope.

These regulations implement the Privacy Act of 1974, 5 USC 552a. The regulations apply to all records maintained by the Federal Retirement Thrift Investment Board that are contained in a system of records and that contain information about an individual. The regulations establish procedures that (a) authorize an individual's access to records maintained about him or her; (b) limit the access of other persons to those records; and (c) permit an individual to request the amendment or correction of records about him or her.

§ 1630.2 Definitions.

For the purposes of this part—

(a) *Agency* means agency as defined in 5 USC 552(e);

(b) *Board* means the Federal Retirement Thrift Investment Board;

(c) *Individual* means a citizen of the United States or an alien lawfully admitted for permanent residence;

(d) *Maintain* means to collect, use, or distribute;

(e) *Record* means any item, collection, or grouping of information about an individual that is maintained by the Board, including but not limited to education, financial transactions, medical history, and criminal or employment history and that contains the individual's name, identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph;

(f) *Routine use* means, with respect to the disclosure of a record, the use of that record for a purpose which is compatible with the purpose for which it was collected;

(g) *System manager* means the official of the Board who is responsible for the maintenance, collection, use, distribution, or disposal of information contained in a system of records;

(h) *System of records* means a group of any records under the control of the Board from which information is retrieved by the name of the individual or other identifying particular assigned to the individual;

(i) *Statistical record* means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, except as provided by 13 U.S.C. 8;

(j) *Subject individual* means the individual by whose name or other identifying particular a record is maintained or retrieved;

(k) *TSP* means the Thrift Savings Plan which is administered by the Board pursuant to 5 U.S.C. 8351 and Chapter 84 (Subchapters III and VII);

(l) *TSP records* means those records maintained by the Thrift Savings Plan Service Office;

(m) *VRS* (Voice Response System) means the fully automated telephone information system for TSP account records;

(n) *Work days* as used in calculating the date when a response is due, includes those days when the Board is open for the conduct of Government business and does not include Saturdays, Sundays and Federal holidays.

§ 1630.3 Publication of systems of records maintained.

(a) Prior to the establishment or revision of a system of records, the Board will publish in the **Federal Register** notice of any new or intended use of the information in a system or proposed system and provide interested persons with a period within which to comment on the new or revised system. Technical or typographical corrections are not considered to be revisions of a system.

(b) When a system of records is established or revised, the Board will publish in the **Federal Register** a notice about the system. The notice shall include:

(1) The system name,

(2) The system location,

(3) The categories of individuals covered by the system,

(4) The categories of records in the system,

(5) The Board's authority to maintain the system,

(6) The routine uses of the system,

(7) The Board's policies and practices for maintenance of the system,

(8) The system manager,

(9) The procedures for notification, access to and correction of records in the system, and

(10) The sources of information for the system.

§ 1630.4 Request for notification and access.

(a) *TSP records.* (1) A participant in the Thrift Savings Plan is a subject of System of Records FRTIB–1. A participant shall make his or her inquiry in accordance with the chart set forth below. The address of the Thrift Savings Plan Service Office is: National Finance Center, P.O. Box 61500, New Orleans, LA, 70161–1500. (Telephone No. 504–255–6000). Telephone inquiries are subject to the verification procedures set forth in § 1630.7. A written inquiry shall include the participant's name, Social Security number, and date of birth.

If you want:	If you are a former employee:	If you are a current employee:
To make inquiry as to whether you are a subject of this system of records.	Call or write TSP Service Office.	Call or write your employing agency in accordance with agency system of records on personnel or payroll records.
Access	Call or write TSP Service Office.	● Call or write your employing agency regarding personnel and payroll records (agency's and participant's contributions, earnings, loan repayments and adjustments to contributions). ● Call or write to the TSP Service Office regarding loan status and interfund transfers.
Disclosure history of your TSP account (disclosures to entities other than your employing agency or the Board or auditors see § 1630.4 (a)(3)).	Write TSP Service Office.	Write TSP Service Office.

(2) A Privacy Act request which is incorrectly submitted to the Board will not be considered received until received by the TSP Service Office. The Board will submit such a Privacy Act request to the TSP Service Office within three workdays. A Privacy Act request which is incorrectly submitted to the TSP Service Office will not be considered received until received by the employing agency. The TSP Service Office will submit such a Privacy Act request to the employing agency within three workdays.

(3) No disclosure history will be made when the Board contracts for an audit of TSP financial statements (which includes the review and sampling of TSP account balances).

(4) No disclosure history will be made when the Department of Labor or the General Accounting Office audits TSP financial statements (which includes the review and sampling of TSP account balances) in accordance with their responsibilities under chapter 84 of title 5 of the U.S. Code. Rather, a requester will be advised that these agencies have statutory obligations to audit TSP activities and that in the course of such audits they randomly sample individual TSP accounts to test for account accuracy.

(b) *Non-TSP Board records.* An individual who wishes to know if a specific system of records maintained by the Board contains a record

pertaining to him or her, or who wishes access to such records, shall address a written request to the Privacy Act Officer, Federal Retirement Thrift Investment Board, 805 Fifteenth Street, NW., Washington, DC 20005. The request letter should contain the complete name and identifying number of the pertinent system as published in the annual **Federal Register** notice describing the Board's Systems of Records; the full name and address of the subject individual; the subject's Social Security number if a Board employee; a brief description of the nature, time, place, and circumstances of the individual's prior association with the Board; and any other information the individual believes would help the Privacy Act Officer determine whether the information about the individual is included in the system of records. In instances where the information is insufficient to ensure disclosure to the subject individual to whom the record pertains, the Board reserves the right to ask the requester for additional identifying information. The words "PRIVACY ACT REQUEST" should be printed on both the letter and the envelope.

§ 1630.5 Granting access to a designated individual.

(a) An individual who wishes to have a person of his or her choosing review a record or obtain a copy of a record from the Board shall submit an originally signed statement authorizing the disclosure of his or her record before the record will be disclosed. The authorization shall be maintained with the record.

(b) The Board will honor any Privacy Act request (e.g., a request to have access or to amend a record) which is accompanied by a valid power of attorney from the subject of the record.

§ 1630.6 Action on request.

(a) For TSP records, the Head, TSP Service Office, or designee, and for non-TSP records, the Privacy Act Officer will answer or acknowledge the inquiry within 10 work days of the date it is received by the Board. When the answer cannot be made within 10 work days, the Head, TSP Service Office or Privacy Act Officer will provide the requester with the date when a response may be expected and, whenever possible, the specific reasons for the delay.

(b) At a minimum, the acknowledgement to a request for access shall include:

(1) When and where the records will be available;

(2) Name, title and telephone number of the official who will make the records available;

(3) Whether access will be granted only by providing a copy of the record through the mail, or only by examination of the record in person if the Privacy Act Officer after consulting with the appropriate system manager has determined the requester's access would not be unduly impeded;

(4) Fee, if any, charged for copies (See § 1630.16); and

(5) If necessary, documentation required to verify the identity of the requester (See § 1630.7).

§ 1630.7 Identification requirements.

(a) *In person.* An individual should be prepared to identify himself or herself by signature, i.e., to note by signature the date of access, Social Security number, and to produce one photographic form of identification (driver's license, employee identification, annuitant card, passport, etc.). If an individual is unable to produce adequate identification, the individual must sign a statement asserting his or her identity and acknowledging that knowingly or willfully seeking or obtaining access to records about another person under false pretenses may result in a fine of up to $5,000 (see § 1630.18). In addition, depending upon the sensitivity of the records, the Privacy Act Officer after consulting with the appropriate system manager may require further reasonable assurances, such as statements of other individuals who can attest to the identity of the requester.

(b) *In writing.* An individual shall provide his or her name, date of birth, and Social Security number and shall sign the request. If a request for access is granted by mail and, in the opinion of the Privacy Act Officer after consulting with the appropriate system manager, the disclosure of the records through the mail may result in harm or embarrassment (if a person other than the subject individual were to receive the records), a notarized statement of identity or some other similar assurance of identity will be required.

(c) *By telephone.* (1) Telephone identification procedures apply only to requests from participants for information in system of records FRTIB–1, Thrift Savings Plan Records.

(2) A participant shall identify himself or herself by providing to the Head, TSP Service Office, or designee, the following: Name, Social Security number and Personal Identification Number (PIN). If the PIN has been lost or is unavailable, the participant must provide his or her date of birth and current or former employing agency. If the Head, TSP Service Office, or designee, determines that any of the particulars provided by telephone are incorrect, the requester will be required to submit a request in writing.

(3) A participant calling the automated TSP Voice Response System must provide Social Security number and PIN.

§ 1630.8 Access of others to records about an individual.

(a) The Privacy Act provides for access to records in systems of records in those situations enumerated in 5 U.S.C. 552a(b) and are set forth in paragraph (b) of this section. Access by executors, administrators, personal representatives, beneficiaries and former spouses to TSP records may be authorized if there is compliance with a routine use under paragraph (b)(3) of this section.

(b) No official or employee of the Board, or any contractor of the Board or other Federal agency operating a Board system of records under an interagency agreement, shall disclose any record to any person or to another agency without the express written consent of the subject individual, unless the disclosure is:

(1) To officers or employees (including contract employees) of the Board who need the information to perform their official duties;

(2) pursuant to the requirements of the Freedom of Information Act, 5 U.S.C. 552;

(3) For a routine use that has been published in a notice in the **Federal Register** (routine uses for the Board's systems of records are published separately in the **Federal Register** and are available from the Board's Privacy Act Officer);

(4) To the Bureau of the Census for uses under Title 13 of the United States Code;

(5) To a person or agency which has given the Board advance written notice of the purpose of the request and certification that the record will be used only for statistical purposes. (In addition to deleting personal identifying information from records released for statistical purposes, the Privacy Act Officer shall ensure that the identity of the individual cannot reasonably be deduced by combining various statistical records);

(6) To the National Archives of the United States if a record has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Archivist of the United States or the

designee of the Archivist to determine whether the record has such value;

(7) In response to a written request that identifies the record and the purpose of the request made by another agency or instrumentality of any Government jurisdiction within or under the control of the United States for civil or criminal law enforcement activity, if that activity is authorized by law;

(8) To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual, if upon such disclosure a notification is transmitted to the last known address of the subject individual;

(9) To either House of Congress, or to a Congressional committee or subcommittee if the subject matter is within its jurisdiction;

(10) To the Comptroller General, or an authorized representative, in the course of the performance of the duties of the General Accounting Office;

(11) Pursuant to the order of a court of competent jurisdiction; or

(12) To a consumer reporting agency in accordance with section 3711(f) of Title 31.

§ 1630.9 Access to the history (accounting) of disclosures from records.

Rules governing access to the accounting of disclosures are the same as those for granting access to the records as set forth in § 1630.4.

§ 1630.10 Denials of access.

(a) The Privacy Act Officer or the Head, TSP Service Office, or designee, for records covered by system FRTIB–1, may deny an individual access to his or her record if:

(1) In the opinion of the Privacy Act Officer or the Head, TSP Service Office, or designee, the individual seeking access has not provided proper identification to permit access; or

(2) The Board has published rules in the **Federal Register** exempting the pertinent system of records from the access requirement.

(b) If access is denied, the requester shall be informed of the reasons for denial and the procedures for obtaining a review of the denial.

§ 1630.11 Requirements for requests to amend records.

(a) *TSP records.* (1) A participant in the TSP who wants to correct or amend a TSP record pertaining to him or her shall submit a written request in accordance with the following chart:

If you want to request amendment of a TSP record and		
The type of record is:	You are a former employee, write to:	You are a current employee, write to:
Personnel or personal records (e.g., age, address or Social Security number).	TSP Service Office.	Your employing agency.
Agency's and participant's contributions, loan repayments and adjustments to contributions.	Your former employing agency.	Your employing agency.
Earnings, interfund transfers and loan prepayments.	TSP Service Office.	TSP Service Office.

(2) The address of the TSP Service Office is listed in § 1630.4(a).

(3) Requests for amendments which are claims for money because of administrative error will be processed in accordance with the procedures set forth for agencies and the Board (including the TSP Service Office which is the Board's recordkeeper) in the Board's Error Correction regulations found at 5 CFR part 1605. Sections 1630.12(b)–1630.14 of this part do not apply to such money claim amendments to TSP records as the Error Correction regulations are an equivalent substitute. Non-money claim TSP record appeals are covered by §§ 1630.12–1630.14, or if covered by the above chart the employing, or former employing, agency's Privacy Act procedures.

(4) Corrections to TSP account records which are made by the Board, its recordkeeper or the employing agency or the former employing agency on its own motion because of a detected administrative error will be effected without reference to Privacy Act procedures.

(5) A participant in the TSP who is currently employed by a Federal agency should be aware that the employing agency provides to the Board personal and payroll records on the participant, such as his or her date of birth, Social Security number, retirement code, address, loan repayments, the amount of participant's contribution, amount of the Government's contribution, if the participant is covered by the Federal Employees' Retirement System Act (FERSA, 5 U.S.C. Chapter 84), and adjustments to contributions. Requests submitted to the Board, or its recordkeeper, to correct information provided by the employing Federal agency will be referred to the employing agency. The reason for this referral is that the Board receives information periodically for the TSP accounts; if the employing agency does not resolve the alleged error, the Board will continue to receive the uncorrected information periodically regardless of a one-time Board correction. The employing agency also has custody of the election and beneficiary forms (which are maintained in the Official Personnel Folder). Hence, requests for correction of records described herein shall be made to the employing agency.

(b) *Non-TSP records.* (1) Any other individual who wants to correct or amend a record pertaining to him or her shall submit a written request to the Board's Privacy Act Officer whose address is listed in § 1630.4. The words "Privacy Act—Request to Amend Record" should be written on the letter and the envelope.

(2) The request for amendment or correction of the record should, if possible, state the exact name of the system of records as published in the **Federal Register**; a precise description of the record proposed for amendment; a brief statement describing the information the requester believes to be inaccurate or incomplete, and why; and the amendment or correction desired. If the request to amend the record is the result of the individual's having gained access to the record in accordance with §§ 1630.4, 1630.5, 1630.6 or § 1630.7, copies of previous correspondence between the requester and the Board should be attached, if possible.

(3) If the individual's identity has not been previously verified, the Board may require documentation of identification as described in § 1630.7.

§ 1630.12 Action on request to amend a record.

(a) For TSP records, the Head, TSP Service Office, will acknowledge a request for amendment of a record, which is to be decided by that office in accordance with the chart in § 1630.11, within 10 work days. Requests received by the TSP Service Office which are to be decided by the current or former employing agency will be sent to that agency by the Head, TSP Service Office, within 3 work days of the date of receipt. A copy of the transmittal letter will be sent to the requester.

(b) For non-TSP records, the Privacy Act Officer will acknowledge a request for amendment of a record within 10 work days of the date the Board receives it. If a decision cannot be made within this time, the requester will be informed by mail of the reasons for the delay and the date when a reply can be expected, normally within 30 work days from receipt of the request.

(c) The final response will include the decision whether to grant or deny the request. If the request is denied, the response will include:

(1) The reasons for the decision;

(2) The name and address of the official to whom an appeal should be directed;

(3) The name and address of the official designated to assist the individual in preparing the appeal;

(4) A description of the appeal process with the Board; and

(5) A description of any other procedures which may be required of the individual in order to process the appeal.

§ 1630.13 Procedures for review of determination to deny access to or amendment of records.

(a) Individuals who disagree with the refusal to grant them access to or to amend a record about them should submit a written request for review to the Executive Director, Federal Retirement Thrift Investment Board, 805 Fifteenth Street, NW., Washington, DC 20005. The words "PRIVACY ACT—APPEAL" should be written on the letter and the envelope. Individuals who need assistance preparing their appeal should contact the Board's Privacy Act Officer.

(b) The appeal letter must be received by the Board within 30 calendar days from the date the requester received the notice of denial. At a minimum, the appeal letter should identify:

(1) The records involved;

(2) The date of the initial request for access to or amendment of the record;

(3) The date of the Board's denial of that request; and

(4) The reasons supporting the request for reversal of the Board's decision.

Copies of previous correspondence from the Board denying the request to access or amend the record should also be attached, if possible.

(c) The Board reserves the right to dispose of correspondence concerning the request to access or amend a record if no request for review of the Board's decision is received within 180 days of the decision date. Therefore, a request for review received after 180 days may, at the discretion of the Privacy Act Officer, be treated as an initial request to access or amend a record.

§ 1630.14 Appeals process.

(a) Within 20 work days of receiving the request for review, the Executive Director, after consultation with the General Counsel, will make a final determination on the appeal. If a final decision cannot be made in 20 work days, the Privacy Act Officer will inform the requester of the reasons for the delay and the date on which a final decision can be expected. Such extensions are unusual, and should not exceed an additional 30 work days.

(b) If the original request was for access and the initial determination is reversed, the procedures in § 1630.7 will be followed. If the initial determination is upheld, the requester will be so informed and advised of the right to judicial review pursuant to 5 U.S.C. 552a(g).

(c) If the initial denial of a request to amend a record is reversed, the Board will correct the record as requested and inform the individual of the correction. If the original decision is upheld, the requester will be informed and notified in writing of the right to judicial review pursuant to 5 U.S.C. 552a(g) and the right to file a concise statement of disagreement with the Executive Director. The statement of disagreement should include an explanation of why the requester believes the record is inaccurate, irrelevant, untimely, or incomplete. The Executive Director shall maintain the statement of disagreement with the disputed record, and shall include a copy of the statement of disagreement to any person or agency to whom the record has been disclosed, if the disclosure was made pursuant to § 1630.9.

§ 1630.15 Exemptions.

(a) Pursuant to subsection (k) of the Privacy Act, 5 U.S.C. 552a, the Board may exempt certain portions of records within designated systems of records from the requirements of the Privacy Act, (including access to and review of such records pursuant to this part) if such portions are:

(1) Subject to the provisions of section 552(b)(1) of the Freedom of Information Act, 5 U.S.C. 552;

(2) Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j)(2) of the Privacy Act, 5 U.S.C. 552a: Provided, however, that if any individual is denied any right, privilege, or benefit that he would otherwise be entitled by Federal law, or for which he would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of the Privacy Act, 5 U.S.C. 552a, under an implied promise that the identity of the source would be held in confidence;

(3) Maintained in connection with providing protective services to the President of the United States or other individuals pursuant to section 3056 of title 18 of the United States Code;

(4) Required by statute to be maintained and used solely as statistical records;

(5) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosures of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of the Privacy Act, 5 U.S.C. 552a, under an implied promise that the identity of the source would be held in confidence;

(6) Test or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service, the disclosure of which would compromise the objectivity or fairness of the testing or examination process; or

(7) Evaluation material used to determine potential for promotion in the armed services, but only to the extent that the disclosure of such material be held in confidence, or, prior to the effective date of the Privacy Act, 5 U.S.C. 552a, under an implied promise that the identity of the source would be held in confidence.

(b) Those designated systems of records which are exempt from the requirements of this part or any other requirements of the Privacy Act, 5 U.S.C. 552a, will be indicated in the notice of designated systems of records published by the Board.

(c) Nothing in this part will allow an individual access to any information compiled in reasonable anticipation of a civil action or proceeding.

§ 1630.16 Fees.

(a) Individuals will not be charged for:

(1) The search and review of the record; and

(2) Copies of ten (10) or fewer pages of a requested record.

(b) Records of more than 10 pages will be photocopied for 15 cents a page. If the record is larger than 8½ × 14 inches, the fee will be the cost of reproducing the record through Government or commercial sources.

(c) Fees must be paid in full before requested records are disclosed. Payment shall be by personal check or money order payable to the Federal

Retirement Thrift Investment Board, and mailed or delivered to the Head, TSP Service Office or to the Privacy Act Officer, depending upon the nature of the request, at the address listed in § 1630.4.

(d) The Head, TSP Service Office or the Privacy Act Officer may waive the fee if:

(1) The cost of collecting the fee exceeds the amount collected; or

(2) The production of the copies at no charge is in the best interest of the Board.

(e) A receipt will be furnished on request.

§ 1630.17 Federal agency requests.

Employing agencies needing automated data processing services from the Board in order to reconcile agency TSP records for TSP purposes may be charged rates based upon the factors of:

(a) Fair market value;

(b) Cost to the TSP; and

(c) Interests of the participants and beneficiaries.

§ 1630.18 Penalties.

(a) Title 18, U.S.C. 1001, Crimes and Criminal Procedures, makes it a criminal offense, subject to a maximum fine of $10,000 or imprisonment for not more than five years, or both, to knowingly and willfully make or cause to be made any false or fraudulent statements or representation in any matter within the jurisdiction of any agency of the United States. Section (i)(3) of the Privacy Act, 5 U.S.C. 552a(i)(3), makes it a misdemeanor, subject to a maximum fine of $5,000 to knowingly and willfully request or obtain any record concerning an individual under false pretenses. Sections (i) (1) and (2) of 5 U.S.C. 552a provide penalties for violations by agency employees of the Privacy Act or regulations established thereunder.

[FR Doc. 90–20372 Filed 5–4–90; 8:45 am]

BILLING CODE 6760–01–M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 210

National School Lunch Program; Lowfat Milk Requirement

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: In response to section 101(b) of Public Law 101–147, the Child Nutrition and WIC Reauthorization Act of 1989, enacted November 10, 1989, this rulemaking amends 7 CFR part 210, the National School Lunch Program regulations, to revise the lunch pattern to require schools to offer students fluid unflavored lowfat milk, as well as fluid whole milk, as a part of the school lunch service.

EFFECTIVE DATE: This rule is effective retroactive to November 10, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Eadie, Chief, Policy and Program Development Branch, Child Nutrition Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, room 515, Alexandria, Virginia or phone (703) 756–3620.

SUPPLEMENTARY INFORMATION:

Classification

Section 101(b) of Public Law 101–147, the Child Nutrition and WIC Reauthorization Act of 1989, requires schools participating in the National School Lunch Program to offer students fluid whole milk and fluid unflavored lowfat milk. This rule adopts this requirement without change. Because of the nondiscretionary, interpretive nature of this rule, the Administrator of the Food and Nutrition Service has determined that prior notice and comment are not required in accordance with 5 U.S.C. 553(b)(3)(A). Further, section 2 of Public Law 101–147 makes this provision effective on the date of enactment, November 10, 1989. Therefore, this rule is being made effective retroactive to November 10, 1989.

This final rule has been reviewed under Executive Order 12291 and has been classified as not major because it does not meet any of the three criteria identified under the Executive Order. This action will not have an annual effect on the economy of $100 million or more, nor will it result in major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographical regions. Furthermore, it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 through 612). The Administrator of the Food and Nutrition Service has certified that this rule will not have a significant economic impact on a substantial number of small entities.

This final rule imposes no new reporting or recordkeeping requirements requiring Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 through 3520).

The National School Lunch Program is listed in the Catalog of Federal Domestic Assistance under No. 10.555 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (7 CFR part 3015, subpart V and Final Rule Related Notice at 48 FR 29112, June 24, 1983.)

Background

Lowfat Milk Requirement

In 1986 Congress amended section 9(a)(2) of the National School Lunch Act (the Act) to require that whole milk be offered in the National School Lunch Program (NSLP) (42 U.S.C. 1758(a)(2)). As a result of this legislative action, the Department issued a regulation in March 1987 amending § 210.10(d)(1) to require schools to offer students: (1) Fluid whole milk; and (2) fluid unflavored lowfat milk, skim milk, or buttermilk (52 FR 29109, March 23, 1987). A subsequent clarification was issued by the Department on August 2, 1988, in which the current language of the rule was adopted (53 FR 29147).

Section 101(b) of Public Law 101–147, the Child Nutrition and WIC Reauthorization Act of 1989, enacted November 10, 1989, further amended section 9(a)(2) of the Act to read as follows: "Lunches served by schools participating in the school lunch program under this Act shall offer students fluid whole milk and fluid unflavored lowfat milk." (42 U.S.C. 1758(a)(2)). This final rule revises the lunch pattern under the NSLP to reflect this Congressional mandate. While, previously, schools had the option of offering students either unflavored skim milk, or buttermilk, in place of unflavored lowfat milk, schools now are required to offer students unflavored lowfat milk as a part of the Program lunch. The standard of identity for lowfat milk, as established by the Food and Drug Administration in 21 CFR 131.135, is milk containing either ½, 1, 1½, or 2 percent milkfat.

In this latest modification of the NSLP milk requirement, Congress emphasized that it did not intend to prevent schools from offering other types of milk if they choose. Therefore, USDA continues to encourage schools to promote milk consumption by offering a wide variety of milks, such as skim milk, or buttermilk. However, because factors

such as enrollment and food service facilities vary greatly from school to school, USDA feels that the decision of whether to offer milks in addition to whole milk and lowfat milk should be made at the local level.

List of Subjects in 7 CFR Part 210

Food assistance programs, National School Lunch Program, Commodity School Program. Grants programs—social programs, Nutrition, Children, Reporting and recordkeeping requirements, Surplus agricultural commodities.

Accordingly, 7 CFR part 210 is amended as follows:

7 CFR PART 210—NATIONAL SCHOOL LUNCH PROGRAM

1. The authority citation for 7 CFR part 210 continues to read as follows:

Authority: Secs. 2–12, 60 Stat. 230, as amended; sec. 10, 80 Stat. 889, as amended; 84 Stat. 270; 42 U.S.C. 1751–1760, 1779.

2. In § 210.10, the introductory text of paragraph (d)(1) and paragraphs (d)(1)(i)–(d)(1)(iii) are removed and two new sentences are added to the beginning of the paragraph and designated as (d)(1) to read as follows:

§ 210.10 Lunch components and quantities.

* * * * *

(d) * * *

(1) *Milk.* Schools shall offer students fluid whole milk and fluid unflavored lowfat milk. This requirement does not preclude schools from offering additional kinds of milk. * * *

* * * * *

Dated: May 2, 1990.

George A. Braley,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 90–10559 Filed 5–4–90; 8:45 am]

BILLING CODE 3410–30–M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 716]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 716 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 365,000 cartons during the period from May 6, 1990, through May 12, 1990. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

DATES: Regulation 716 (7 CFR part 910) is effective for the period from May 6, 1990, through May 12, 1990.

FOR FURTHER INFORMATION CONTACT: Beatriz Rodriguez, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523, South Building, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 475–3861.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), 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.

The purpose of the RFA is to fit regulatory action 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 Agricultural Marketing Agreement 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 approximately 85 handlers of lemons grown in California and Arizona subject to regulation under the lemon marketing order and approximately 2,500 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers of California-Arizona lemons may be classified as small entities.

This regulation is issued under Marketing Order No. 910, as amended (7 CFR part 910), regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act (the "Act," 7 U.S.C. 601–674), as amended. This action is based upon the recommendation and information submitted by the Lemon Administrative Committee (Committee) and upon other available information. It is found that this action will tend to effectuate the declared policy of the Act.

This regulation is consistent with the California-Arizona lemon marketing policy for 1989–90. The Committee met publicly on May 1, 1990, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and unanimously recommended a quantity of lemons deemed advisable to be handled during the specified week. The Committee reports that demand for large-sized lemons (140's or larger) is good. However, significant levels of price discounting continue on small-sized lemons.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary, in order to effectuate the declared purposes of the Act, to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Lemons, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 910 is amended as follows:

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

1. The authority citation for 7 CFR part 910 continues to read as follows:

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

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

2. Section 910.716 is added to read as follows:

§ 910.716 Lemon regulation 716.

The quantity of lemons grown in California and Arizona which may be handled during the period from May 6, 1990, through May 12, 1990, is established at 365,000 cartons.

Dated: May 2, 1990.

Charles R. Brader,

Director, Fruit and Vegetable Division.

[FR Doc. 90-10558 Filed 5-4-90; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 985

[FV-90-140 FR]

Expenses and Assessment Rate for Far West Spearmint Oil

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule authorizes expenditures and establishes an assessment rate under Marketing Order No. 985 for the 1990–91 marketing year established for the spearmint oil marketing order. Funds to administer this program are derived from assessments on handlers.

EFFECTIVE DATE: June 1, 1990 through May 31, 1991.

FOR FURTHER INFORMATION CONTACT: Jacquelyn R. Schlatter, Marketing Specialist, Volume Control Programs, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone (202) 447–5120.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order No. 985 [7 CFR part 985], regulating the handling of spearmint oil produced in the Far West. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This 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 (AMS) 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 approximately 9 handlers of Far West spearmint oil subject to regulation under the spearmint oil marketing order and approximately 253 producers of Far West spearmint oil in the production area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having average gross annual revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of Far West spearmint oil producers and handlers may be classified as small entities.

The spearmint oil marketing order requires that the assessment rate for a particular fiscal year shall apply to all assessable spearmint oil handled from the beginning of such year. An annual budget of expenses is prepared by the Spearmint Oil Administrative Committee (Committee) and submitted to the U.S. Department Agriculture for approval. The members of the Committee are producers of the regulated spearmint oil. They are familiar with the Committee's needs and with the costs for goods, services, and personnel in its local area and are thus in a position to formulate an appropriate budget. The budget is formulated and discussed in public meetings. Thus, 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 spearmint oil. Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the Committee's expected expenses. Recommended budgets and rates of assessments are usually acted upon by the Committee shortly before a season starts, and expenses are incurred on a continous basis. Therefore, budget and assessment rate approvals must be expedited so that the Committee will have funds to pay their expenses.

The Committee met on February 28, 1990, and unanimously recommended 1990–91 marketing order expenditures of $187,400 and an assessment rate of $0.09 per pound of Far West spearmint oil. In comparison, 1989–90 marketing year budgeted expenditures were $176,800 and the assessment rate was $0.10 per pound. Expenditure categories in the 1990–91 budget are $75,400 for program administration, $86,000 for salaries, and $26,000 for expenses, which includes travel and compensation. Assessment income for 1990–91 is expected to total $163,820.61 based on shipments of 1,820,229 pounds of spearmint oil. Interest and incidental income is estimated at $8,500. The Committee may expend operational reserve funds of $15,079.39 to meet budgeted expenses. Additional reserve funds may be used to meet any deficit in assessment income. Further, any unexpended funds may be carried to the next marketing year as a reserve.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be significantly offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

This action adds a new § 985.310 and is based on Committee recommendations and other available information. A proposed rule was published in the April 4, 1990, issue of the **Federal Register** (55 FR 12498). Comments on the proposed rule were invited from interested persons until April 16, 1990. 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.

List of Subjects in 7 CFR Part 985

Marketing agreements, Oils and fats, Reporting and recordkeeping requirements, Spearmint oil.

For the reasons set forth in the preamble, 7 CFR part 985 is amended as follows:

PART 985—MARKETING ORDER REGULATING THE HANDLING OF SPEARMINT OIL PRODUCED IN THE FAR WEST

1. The authority citation for 7 CFR part 985 continues to read as follows:

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

2. New § 985.310 is added to read as follows:

Note.—This section will not appear in the annual Cost of Federal Regulations.

§ 985.310 Expenses and assessment rate.

Expenses of $187,400 by the Spearmint Oil Administrative Committee are authorized, and an assessment rate payable by each handler in accordance with section 983.41 is fixed at $0.09 per pound of salable spearmint oil for the 1990–91 marketing year ending on May

31, 1991. Unexpended funds may be carried over as a reserve.

Dated: May 01, 1990.

William J. Doyle,

Associate Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90-10473 Filed 5-4-90; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 286

[INS No. 1256-90]

Immigration User Fee

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule establishes a lockbox for Immigration User Fee (IUF) remittances. This rule will have no impact on the public, but will result in better cash management for the U.S. Government.

EFFECTIVE DATE: February 8, 1990.

FOR FURTHER INFORMATION CONTACT: Charles S. Thomason, Systems Accountant, Resource Management Branch, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, Telephone: (202) 633-4705.

SUPPLEMENTARY INFORMATION: On January 9, 1990, the Immigration and Naturalization Service (Service) published an interim rule with request for comments at 55 FR 729, setting forth changes to existing regulations by requiring that all IUF remittances and supporting statements be mailed to: Immigration and Naturalization Service, Post Office Box No. 93963, Chicago, Illinois 60673-3963.

The Service published an interim rule to allow for this new procedure to be implemented immediately while also allowing time for the public to comment. The Service did not receive any comments on the interim rule.

In accordance with 5 U.S.C. 605(b), the Attorney General certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule would not be a major rule within the meaning of section 1(b) of E.O. 12291, nor does this rule have federalism implications warranting the preparation of a Federal Assessment in accordance with E.O. 12612.

List of Subjects in 8 CFR Part 286

Aircraft, Immigration, Reporting and recordkeeping requirements, Vessels.

PART 286—IMMIGRATION USER FEE

Accordingly, the interim rule amending 8 CFR part 286 which was published at 55 FR 729 on January 9, 1990, is adopted as a final rule without change.

Dated: March 23, 1990.

Gene McNary,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 90-10502 Filed 5-4-90; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89-NM-187-AD; Amdt. 39-6593]

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 767 series airplanes, which requires replacement of the oxygen generator release cable assembly. This amendment is prompted by reports of broken release pins. This condition, if not corrected, could result in failure of the oxygen generator to activate and supply oxygen to the passengers and flight attendants.

EFFECTIVE DATE: June 12, 1990.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington, 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. David M. Herron, Systems and Equipment Branch, ANM-130S; telephone (206) 431-1949. Mailing address: FAA Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to Boeing Model 767 series airplanes, which requires replacement of the oxygen generator release cable assembly, was published in the **Federal Register** on October 3, 1989 (54 FR 40675).

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

The Air Transport Association (ATA) of America members expressed no technical objection to the rule, but expressed concern about the inability to accomplish the modification during a scheduled "C" check, since parts had not been made available to the time the comment period closed. The ATA, therefore, requested that the compliance time be extended to two years after the effective date of the AD. The FAA does not agree. During development of the proposed rule, parts availability and installation during scheduled maintenance was taken into account. The manufacturer has advised that sufficient parts are available for operators to comply with this rule within the proposed compliance time. Most, if not all, affected airplanes will be scheduled for a "C" check within the 360-day compliance time, and the compliance time was chosen specifically for that reason.

Another operator stated that it had no objection to the rule and would have the checks and replacements required by the AD accomplished within the 360 days set forth by the rule.

A third operator commented that is believed the compliance time of 360 days too long, compared with the significance of the problem. The FAA does not agree. The compliance time was established after considering a number of issues, including the likelihood of failure, how often the event occurs, parts availability, and scheduling by the operators. Considering these factors and others, the FAA determined that the proposed compliance time provides an acceptable level of safety to the public without imposing an undue burden upon the operators.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

There are approximately 264 Model 767 series airplanes of the affected design in the worldwide fleet. It is estimated that 111 airplanes of U.S. registry will be affected by this AD, that it will take approximately 48 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Replacement parts are available at no cost. Based on

these figures, the total cost impact of the AD on U.S. operators is estimated to be $213,120.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations 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 Public Law 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:

Boeing: Applies to Model 767 series airplanes, listed in Boeing Alert Service Bulletin 767-35A0015, dated July 13, 1989, certificated in any category. Compliance required within 360 days after the effective date of this AD, unless previously accomplished.

To ensure proper operation of the oxygen generator, accomplish the following:

A. Remove and replace the oxygen generator release cable assemblies in accordance with Boeing Alert Service Bulletin 767-35A0015, dated July 13, 1989.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, Seattle Aircraft Certification Office.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective June 12, 1990.

Issued in Seattle, Washington, on April 27, 1990.

Steven B. Wallace,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-10489 Filed 5-4-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 89-NM-102-AD; Amdt. 39-6592]

Airworthiness Directives; Boeing Model 767 Series Airplanes.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 767 series airplanes, which requires replacement of spoiler wheel command units with improved units, and test and adjustment of the units after replacement. This amendment is prompted by reports that a potential failure mode exists, which could cause uncommanded deployment of three flight spoilers on one wing to their full up positions. This condition, if not corrected, could result in a sudden large rolling moment and, after recovery by the pilot, diminished roll capability and a significant loss of lift.

EFFECTIVE DATE: June 12, 1990.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Donald L. Kurle, Systems and Equipment Branch, ANM-130S; telephone (206) 431-1576. Mailing address: FAA Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to certain Boeing Model 767 series airplanes, which requires replacement of spoiler wheel command units with improved units, and test and adjustment of the units after replacement, was published in the **Federal Register** on March 2, 1990 (55 FR 7502).

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

The Air Transport Association (ATA) of America supported the rule and commented that affected operators will need the full 24 month compliance period, as proposed, in order to perform the retrofit of spoiler command units. (The compliance period remains at 24 months in the final rule.)

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

There approximately 254 Model 767 series airplanes of the affected design in the worldwide fleet. It is estimated that 101 airplanes of U.S. registry will be affected by this AD, that it will take approximately five manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $20,200. The parts required by this AD may be furnished or fabricated from operators' existing stock or purchased directly from industry sources. Therefore, parts cost is estimated to be negligible.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance

with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations 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 Public Law 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:

Boeing: Applies to Model 767 series airplanes, line numbers 1 through 243, 247, 262, 263, 269, 273 through 275, 282, 285, 289, and 291, certificated in any category. Compliance is required within the next 24 months after the effective date of this AD, unless previously accomplished.

To prevent uncommanded extension of three flight spoilers on one wing, due to a failure of a spoiler wheel command unit, accomplish the following:

A. For Group 1 airplanes (as listed in the Boeing service bulletin): Replace both spoiler wheel command units in accordance with Boeing Service Bulletin 767–27–0085, Revision 1, dated November 30, 1989.

B. For Group 2 airplanes (as listed in the Boeing service bulletin): Replace the left side spoiler wheel command unit in accordance with Boeing Service Bulletin 767–27–0085, Revision 1, dated November 30, 1989.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, Seattle Aircraft Certification Office.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective June 12, 1990.

Issued in Seattle, Washington, on April 27, 1990.

Steven B. Wallace,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90–10490 Filed 5–4–90; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 89–ACE–22]

Alteration of VOR Federal Airways; MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the descriptions of VOR Federal Airways V–14 and V–88 located in the vicinity of St. Louis, MO. The realignment provides published airways in areas where aircraft are usually radar vectored. This action reduces controller workload.

EFFECTIVE DATE: 0901 U.t.c. June 28, 1990.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9250.

SUPPLEMENTARY INFORMATION:

History

On September 6, 1989, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the descriptions of VOR Federal Airways V–14 and V–88 located in the vicinity of St. Louis, MO (54 FR 36996). The realignments provide published airways in an area where aircraft are normally radar vectored. This action reduces controller workload. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6F dated January 2, 1990.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the descriptions of VOR Federal Airways V–14 and V–88 located in the vicinity of St. Louis, MO. The realignment provides published airways in areas where aircraft are usually radar vectored. This action reduces controller workload.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(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) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR federal airways.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

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

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.123 [Amended]

2. Section 71.123 is amended as follows:

V-14 [Amended]

By removing the words "Foristell, MO; St. Louis, MO;" and substituting the words "INT Vichy 067° and St. Louis, MO, 225° radials;"

V-88 [Amended]

By removing the words "INT Vichy 091° and St. Louis, MO, 171° radials." and substituting the words "to Troy, IL."

Issued in Washington, DC, on April 27, 1990.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 90-10491 Filed 5-4-90; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 97

[Docket No. 26207; Amdt. No. 1425]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: Effective: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS-420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(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) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Approaches, Standard Instrument, Incorporation by reference.

Issued in Washington, DC on April 27, 1990.

Daniel C. Beaudette,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the autnority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending,

suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 g.m.t. on the dates specified, as follows:

PART 97—[AMENDED]

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * Effective June 28, 1990*

Chicago, IL—Chicago Midway, RNAV RWY 22L, Amdt. 1
Dubuque, IA—Dubuque Regional, VOR RWY 13, Amdt. 8
Dubuque, IA—Dubuque Regional, VOR RWY 31, Amdt. 11
Dubuque, IA—Dubuque Regional, VOR RWY 36, Amdt. 5
Dubuque, IA—Dubuque Regional, LOC/DME BC RWY 13, Amdt. 4
Dubuque, IA—Dubuque Regional, NDB RWY 31, Amdt. 8
Dubuque, IA—Dubuque Regional, ILS RWY 31, Amdt. 10
Harlan, IA—Harlan Muni, NDB RWY 33, Amdt. 3
Louisville, KY—Standiford Field, VOR or TACAN RWY 29, Amdt. 18
Louisville, KY—Standiford Field, NDB RWY 1, Amdt. 6
Louisville, KY—Standiford Field, NDB RWY 29, Amdt. 15
Louisville, KY—Standiford Field, ILS RWY 1, Amdt. 8
Louisville, KY—Standiford Field, ILS RWY 19, Amdt. 6
Louisville, KY—Standiford Field, ILS RWY 29, Amdt. 18
Louisville, KY—Standiford Field, RADAR-1, Amdt. 23
Baton Rouge, LA—Baton Rouge Metropolitan/Ryan Field, VOR RWY 4L, Amdt. 15
Baton Rouge, LA—Baton Rouge Metropolitan/Ryan Field, VOR/DME RWY 22R, Amdt. 7
Baton Rouge, LA—Baton Rouge Metropolitan/Ryan Field, LOC BC RWY 4L, Amdt. 4
Baton Rouge, LA—Baton Rouge Metropolitan/Ryan Field, NDB RWY 13, Amdt. 23
Baton Rouge, LA—Baton Rouge Metropolitan/Ryan Field, NDB RWY 31, Amdt. 1
Baton Rouge, LA—Baton Rouge Metropolitan/Ryan Field, ILS RWY 13, Amdt. 24
Baton Rouge, LA—Baton Rouge Metropolitan/Ryan Field, ILS RWY 22R, Amdt. 8
Baton Rouge, LA—Baton Rouge Metropolitan/Ryan Field, Radar-1, Amdt. 8
Minneapolis, MN—Flying Cloud, VOR RWY 9R, Amdt. 7
Minneapolis, MN—Flying Cloud, ILS RWY 9R, Amdt. 1
Olive Branch, MS—Olive Branch, NDB RWY 18, Amdt 3
Castonia, NC—Gastonia Muni, NDB RWY 3, Amdt. 7
Jacksonville, NC—Albert J. Ellis, NDB RWY 5, Amdt. 6
Jacksonville, NC—Albert J. Ellis, ILS RWY 5, Amdt. 6
Casselton, ND—Casselton Regional, VOR/DME RWY 31, Orig.
Bryan, TX—Coulter Field, VOR/DME-A, Amdt. 2
Caldwell, TX—Caldwell Muni, VOR/DME-A, Amdt. 2
Carthage, TX—Panola County-Sharpe Field, NDB RWY 35, Orig.
Sinton, TX—San Patricio County, VOR RWY 32, Amdt. 6
Racine, WI—Horlick-Racine, VOR RWY 4, Amdt. 7
Racine, WI—Horlick-Racine, VOR RWY 22, Amdt. 8
Racine, WI—Horlick-Racine, RNAV RWY 22, Amdt. 2

** * * Effective May 31, 1990*

Douglas Bisbee, AZ—Bisbee-Douglas Intl, VOR/DME RWY 17, Amdt. 5
Garden City, KS—Garden City Muni, VOR RWY 17, Amdt. 10
Russellville, KY—Russellville-Logan County, VOR/DME RWY 24, Amdt. 4
Detroit, MI—Detroit Metro Wayne County, VOR RWY 03L, Orig.
Detroit, MI—Detroit Metro Wayne County, VOR RWY 21R, Orig.
Bay City, TX—Bay City Muni, NDB RWY 13, Amdt. 2
Lynchburg, VA—Lynchburg Muni/Preston Glenn Field, VOR RWY 3, Amdt. 11
Lynchburg, VA—Lynchburg Muni/Preston Glenn Field, VOR/DME RWY 21, Amdt. 7
Lynchburg, VA—Lynchburg Muni/Preston Glenn Field, ILS RWY 3, Amdt. 12
Richmond, VA—Richmond Intl (Byrd Field), ILS RWY 2, Orig.
Burlington, VT—Burlington Intl, NDB RWY 15, Amdt. 18

** * * Effective April 3, 1990*

St. Louis, MO—Spirit of St. Louis, NDB RWY 8R, Amdt. 9
St. Louis, MO—Spirit of St. Louis, ILS RWY 8R, Amdt. 10

[FR Doc. 90-10492 Filed 5-4-90; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM80-53]

Maximum Lawful Price and Inflation Adjustments under the Natural Gas Policy Act

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Final rule; order of the Director, OPPR.

SUMMARY: Pursuant to the authority delegated by 18 CFR 375.307(c)(1), the Director of the Office of Pipeline and Producer Regulation revises and publishes the maximum lawful prices prescribed under title I of the Natural Gas Policy Act (NGPA) for the months of May, June, July, 1990. Section 101(b)(6) of the NGPA requires that the Commission compute and publish the maximum lawful prices before the beginning of each month for which the figures apply.

EFFECTIVE DATE: May 1, 1990.

FOR FURTHER INFORMATION CONTACT: Garry L. Penix, (202) 208-0622.

SUPPLEMENTARY INFORMATION:

Order of the Director, OPPR

Issued April 30, 1990.

Section 101(b)(6) of the Natural Gas Policy Act of 1978 (NGPA) requires that the Commission compute and make available maximum lawful prices and inflation adjustments prescribed in Title I of the NGPA before the beginning of any month for which such figures apply.

Pursuant to this requirement and § 375.307(c)(1) of the Commission's regulations, which delegates the publication of such prices and inflation adjustments to the Director of the Office of Pipeline and Producer Regulation, the maximum lawful prices for the months of May, June, July, 1990, are issued by the publication of the price tables for the applicable quarter. Pricing tables are found in § 271.101(a) of the Commission's regulations. Table I of § 271.101(a) specifies the maximum lawful prices for gas subject to NGPA sections 102, 103(b)(1), 105(b)(3), 106(b)(1)(B), 107(c)(5), 108 and 109. Table II of § 271.101(a) specifies the maximum lawful prices for sections 104 and 106(a) of the NGPA. Table III of § 271.102(c) contains the inflation adjustment factors. The maximum lawful prices and the inflation adjustment factors for the periods prior to May, 1990, are found in the tables in §§ 271.101 and 271.102.

List of Subjects in 18 CFR Part 271

Natural Gas.

Kevin P. Madden,

Director, Office of Pipeline and Producer Regulation.

1. The authority citation for part 271 continues to read as follows:

Authority: Natural Gas Act, 15 U.S.C. 717–717w; Department of Energy Organization Act, 42 U.S.C. 7101–7352; E.O. 12009, 3 CFR 1978 Comp., p. 142; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432.

2. Section 271.101(a) is amended by adding the maximum lawful prices for May, June, July, 1990, in Tables I and II, moving footnote four to show that it applies to subpart G of part 271 and revising footnote four to reflect changes in section 271.703 as a result of the Commission's action in its Order No. 519–A.

TABLE I—NATURAL GAS CEILING PRICES

[Other Than NGPA Sections 104 and 106(a)]

Subpart of part 271	NGPA section	Category of gas	Maximum lawful price per MMBtu for deliveries in—		
			May 1990	June 1990	July 1990
B	102	New natural gas, certain OCS gas [1]	5.702	5.747	5.792
C	103(b)(1)	New onshore production wells [2]	3.565	3.582	3.599
E	105(b)(3)	Intrastate existing contracts	5.425	5.464	5.503
F	106(b)1(B)	Alternative maximum lawful price for certain intrastate rollover gas [3]	2.039	2.049	2.059
G	107(c)(5)	Gas produced from tight formations [4]	7.130	7.164	7.198
H	108	Stripper gas	6.106	6.154	6.203
I	109	Not otherwise covered	2.950	2.964	2.978

[1] Commencing January 1, 1985, the price of natural gas finally determined to be new natural gas under section 102(c) was deregulated. (See Part 272 of the Commission's regulations.)

[2] Commencing January 1, 1985, and July 1, 1987, the price of some natural gas finally determined to be natural gas produced from a new, onshore production well under section 103 was deregulated. (See part 272 of the Commission's regulations.) Thus, for all months succeeding June 1987 publication of a maximum lawful price per MMBtu under NGPA section 103(b)(2) is discontinued.

[3] Section 271.602(a) provides that for certain gas sold under an intrastate rollover contract the maximum lawful price is the higher of the price paid under the expired contract, adjusted for inflation or an alternative Maximum Lawful Price specified in this Table. This alternative Maximum Lawful Price for each month appears in this row of Table I. Commencing January 1, 1985, the price of some intrastate rollover gas was deregulated. (See part 272 of the Commission's regulations.)

[4] The maximum lawful price for tight formation gas is the lesser of the negotiated contract price or 200% of the price specified in subpart C of part 271. The incentive ceiling price does not apply to certain gas after May 12, 1990, as a result of Commission Order No. 519–A. (See § 271.703 of the Commission's regulations.)

TABLE II.—NATURAL GAS CEILING PRICES: NGPA SECTIONS 104 AND 106(A) (SUBPART D, PART 271)

Category of natural gas and type of sale or contract	Maximum lawful price per MMBtu for deliveries in—		
	May 1990	June 1990	July 1990
Post-1974 gas: [2] All producers	$2.950	$2.964	$2.978
1973–1974 Biennium gas:			
Small producer	2.489	2.501	2.513
Large producer	1.909	1.918	1.927
Interstate rollover gas:			
All producers replacement contract gas or recompletion gas	1.095	1.100	1.105
Small producer	1.402	1.409	1.416
Large producer	1.071	1.076	1.081
Flowing gas:			
Small producer	0.707	0.710	0.713
Large producer	0.595	0.598	0.601
Certain Permian Basin gas:			
Small producer	0.834	0.838	0.842
Large producer	0.737	0.741	0.745
Certain Rocky Mountain gas:			
Small producer	0.834	0.838	0.842
Large producer	0.707	0.710	0.713
Certain Appalachian Basin gas:			
North subarea contracts dated after 10–7–69	0.673	0.676	0.679
Other contracts	0.624	0.627	0.630
Minimum rate gas: [1] All producers	0.366	0.368	0.370

[1] Prices for minimum rate gas are expressed in terms of dollars per Mcf, rather than MMBtu.

[2] This price may also be applicable to other categories of gas (see §§ 271.402 and 271.602).

3. Section 271.102(c) is amended by adding the inflation adjustment for the months of May, June, July, 1990 in Table III.

TABLE III.—INFLATION ADJUSTMENT

Month of delivery	Factor by which price in preceding month is multiplied
1990:	
May	1.00479
June	1.00479
July	1.00479

[FR Doc. 90–10469 Filed 5–4–90; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 74

[Docket No. 89C–0095]

Listing of Color Additives for Coloring Intraocular Lens Haptics; D&C Violet No. 2

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the color additive regulations to provide for the safe use of D&C Violet No. 2 for coloring polymethylmethacrylate intraocular lens haptics. This action is in response to a petition filed by IOLAB Corp. The agency is also transferring, editorially, the listings for the use of this color additive in sutures from 21 CFR 74.1602, subpart B—Drugs to 21 CFR 74.3602, subpart D—Medical Devices, so that medical device uses for this color additive will be listed uniformly.

DATES: Effective June 7, 1990, except as to any provisions that may be stayed by the filing of proper objections; written objections by June 6, 1990.

ADDRESSES: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Sandra L. Varner, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION:

I. Introduction

In a notice published in the **Federal Register** of April 18, 1989 (54 FR 15556),

FDA announced that a color additive petition (CAP 9C0216) had been filed by IOLAB Corp., 500 Iolab Dr., Claremont, CA 91711, proposing that part 74—Listing of Color Additives Subject to Certification (21 CFR part 74) be amended to provide for the safe use of D&C Violet No. 2 for coloring polymethylmethacrylate intraocular lens haptics. The petition was filed under section 706 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 376).

Haptics are suture-like loops attached to intraocular lenses and used as points of surgical attachment to the eye. Color additives are added to sutures and to haptics to increase their visibility for the surgeon. Small size sutures and haptics are difficult to see, and thus, they must be intensely colored.

II. Regulatory History

In the **Federal Register** of April 12, 1974 (39 FR 13266), in response to color additive petition 3C0106, FDA issued a final rule listing D&C Violet No. 2 for use in coloring polyglactin 910 synthetic absorbable surgical sutures, including sutures for ophthalmic use, at a level not to exceed 0.2 percent by weight of the suture material (21 CFR 74.1602; formerly 21 CFR 8.4152). In the 1974 final rule, FDA also established specifications for D&C Violet No. 2.

In the **Federal Register** of November 19, 1976 (41 FR 51007), in response to color additive petition 3C0037, FDA issued a final rule permanently listing D&C Violet No. 2 for use in externally applied drugs and cosmetics (21 CFR 74.1602 and 74.2602) (formerly 21 CFR 8.7222).

In the **Federal Register** of September 23, 1980 (45 FR 62978), in response to color additive petition 9C0142, FDA issued a final rule listing D&C Violet No. 2 for coloring polydioxanone synthetic absorbable sutures for use in general and ophthalmic surgery at a level not to exceed 0.3 percent by weight of the suture material (21 CFR 74.1602).

In the **Federal Register** of May 27, 1987 (52 FR 19719), in response to color additive petition 5C0190, FDA issued a final rule permanently listing D&C Violet No. 2 coloring contact lenses (21 CFR 74.3602).

III. Applicability of the Act

With the passage of the Medical Device Amendments of 1976 to the Act (Pub. L. 94–295), Congress mandated the listing of color additives for use in medical devices when the color additive comes into contact with the body for a significant period of time (21 U.S.C. 376)). Because intraocular lens haptics containing D&C Violet No. 2 are intended to be left in place indefinitely, the color additive will be in direct contact with the body for a significant period of time. Consequently, the use of the color additive currently before the agency is subject to the statutory listing requirement.

IV. The Color Additive

D&C Violet No. 2 is principally 1-hydroxy-4-[(4-methylphenyl)amino]-9, 10-anthracenedione (CAS Reg. No. 81–48–1). It is typically manufactured by either condensation of quinizarin with *p*-toluidine or by condensation of 1-hydroxy-4-halogenoanthraquinone with *p*-toluidine. Because no chemical reaction consumes all the starting materials and yields only the desired product, both the resulting reaction mixture and commercial product will contain residual amounts of the starting materials, including *p*-toluidine. This fact is significant because Weisburger et al., have demonstrated that *p*-toluidine is a carcinogen in mice (Ref. 1).

Residual amounts of reactants, such as *p*-toluidine and other manufacturing aids, are commonly found among the impurities of many color additives. The presence of such impurities is not unique to color additives, however. Numerous impurities are present in all chemical products, even in highly purified reagent grade chemicals.

V. Analysis of Data

A. Safety of the Color Additive

1. *Legal standard.* Under section 706(b)(4) of the act, the so-called "general safety clause" for color additives, a color additive cannot be listed for a particular use unless a fair evaluation of the data available to FDA establishes that the color additive is safe for that use. Under FDA regulations (21 CFR 570.3(i)) a color additive is safe if there is convincing evidence that establishes with reasonable certainty that no harm will result from its intended use. In addition, the anticancer or Delaney clause of the Color Additive Amendments (section 706(b)(5)(B) of the act) provides that a noningested color additive shall be deemed unsafe and shall not be listed if, after tests that are appropriate for evaluating the safety of the additive for such use, it is found to induce cancer in man or animal.

2. *Exposure to the color additive.* FDA concludes from the data submitted and from other relevant information that the upper limit of exposure to D&C Violet No. 2 from its use in coloring polymethylmethacrylate intraocular lens haptics is 1.1 nanograms per day. The agency calculated this upper limit of exposure based on several factors. First, the color additive will be used at levels not to exceed 0.2 percent by weight of the polymethylmethacrylate intraocular lens haptics. Based on this and additional information submitted by the petitioner, FDA estimated that the maximum use level of D&C Violet No. 2 is 8 micrograms per intraocular lens (Ref. 2). Second, the agency made several worst-case assumptions: (1) That the user undergoes only one intraocular lens implantation during a lifetime, (2) that a lifespan of 40 years follows implantation, and (3) that 100 percent of the color additive migrates from the haptics into the eye over the 40-year period. Because these assumptions are worst case, exposure to D&C Violet No. 2 from its use for coloring polymethylmethacrylate intraocular lens haptics is likely to be far less than 1.1 nanograms per day.

3. *Toxicology.* FDA's safety evaluation for this use of D&C Violet No. 2 included a review of the available toxicity studies in the agency's files that were used previously to support the current listings for the use of D&C Violet No. 2 in externally applied drugs and cosmetics (21 CFR 74.1602 and 21 CFR 74.2602, respectively), in sutures (21 CFR 74.1602), and in contact lenses (21 CFR 74.3602). When presented with a substance whose use will result in extremely low levels of exposure, as from the present use of D&C Violet No. 2 in intraocular lens haptics, the agency does not ordinarily consider chronic toxicity testing to be necessary to determine the safety of the use (Ref. 3).

Although FDA does not normally require such testing, chronic studies were performed with D&C Violet No. 2. Two-year carcinogenicity studies of dyed sutures implanted in rats and a lifetime skin-painting study in mice showed no indication of carcinogenicity. Additionally, teratology studies of sutures implanted in rats and rabbits exhibited no evidence of teratogenic effects. Other toxicity studies of D&C Violet No. 2 included acute oral toxicity studies in rats and dogs, acute toxicity studies of dyed sutures and suture components in rats and mice, an evaluation of the tissue response of dyed sutures implanted intramuscularly in rats, a biological evaluation of dyed sutures implanted in rabbits' eyes, 6-month safety evaluations of surgically implanted sutures in rats and dogs, a pyrogenicity study of sutures, a study of the tissue reaction to the color additive injected into rabbit muscle, 7-month toxicity studies of implanted sutures in rats and dogs, dermal irritation and percutaneous systemic toxicity studies in rabbits, an in vitro cytotoxicity test,

and primary ocular irritation studies in rabbits with saline and cottonseed oil extracts of tinted contact lens material. There were no significant adverse effects noted in these toxicity studies. Thus, these data support the safety of D&C Violet No. 2 for the petitioned uses.

In addition, FDA evaluated the toxicity studies that were provided by the petitioner to support a listing for use in coloring polymethylmethacrylate intraocular lens haptics. These studies included a systemic injection test in mice using haptic extracts, an intramuscular implantation test in rabbits, an intracutaneous toxicity test in rabbits using haptic extracts, a dermal sensitivity study in guinea pigs using haptic extracts, and four in vitro cytotoxicity studies, including an agar overlay test, using haptic extracts and the dyed material. Three studies were also submitted in a supplement proposing a change in the catalyst used in the manufacture of the haptic material. These studies included two in vitro hemolysis biocompatibility tests using haptic extracts and the dyed material, and an in vitro cytotoxicity test using haptic extracts. There were no adverse effects noted in these toxicity studies. Thus, these studies establish the safety of the use of D&C Violet No. 2 as a color additive in polymethylmethacrylate intraocular lens haptics.

B. Carcinogenic Impurity

Although D&C Violet No. 2 has itself not been shown to cause cancer, it does contain minor amounts of a carcinogenic impurity, *p*-toluidine. The carcinogenicity of *p*-toluidine was discussed in the final rule, published in the **Federal Register** of April 2, 1982 (47 FR 14138), permanently listing D&C Green No. 6 for use in externally applied drugs and cosmetics. As stated in that document, data reported by the National Cancer Institute (NCI) demonstrated that *p*-toluidine was carcinogenic for male and female Charles River CD–1 (Ham/ICR derived) mice, causing an increased incidence of hepatomas (liver tumors) (Ref. 1).

In addition, the Center for Food Safety and Applied Nutrition's Cancer Assessment Committee reviewed this bioassay and other relevant data available in the literature and concluded that the findings of carcinogenicity were supported by this information on *p*-toluidine (Ref. 4). The agency further concluded that an estimate of the upper-bound level of human risk from potential exposure to *p*-toluidine from the proposed use in coloring polymethylmethacrylate intraocular lens haptics could be calculated from the bioassay.

1. *Prior action.* In the past, FDA has refused to list a color additive that contained or was expected to contain minor amounts of a carcinogenic chemical, even though the additive as a whole had not been shown to cause cancer. The agency now believes, however, that scientific developments and experience with risk assessment procedures make it possible for FDA to establish the safety of an additive that contains a carcinogenic chemical but that has not itself been shown to cause cancer.

In the preamble to the final rule permanently listing D&C Green No. 6, published in the **Federal Register** of April 2, 1982 (47 FR 14138), FDA explained the basis for approving the use of a color additive that had not been shown to cause cancer, even though it contains a carcinogenic impurity. Since that decision, FDA has approved the use of other color additives on the same basis.

The agency now considers the Delaney anticancer clause to be applicable only when the color as a whole is found to cause cancer. An additive that has not been shown to cause cancer, but that contains a carcinogenic impurity, may properly be evaluated under the general safety clause of the statute, using risk assessment procedures to determine whether there is a reasonable certainty that no harm will result from the proposed use of the additive.

The agency's position is supported by *Scott* v. *FDA*, 728 F.2d 322 (6th Cir. 1984). That case involved a challenge to FDA's decision to list D&C Green No. 5, which contains a carcinogenic impurity but has itself not been shown to cause cancer. Relying heavily on the reasoning in the agency's decision, the U.S. Court of Appeals for the Sixth Circuit rejected the challenge to FDA's action and affirmed the listing regulation.

2. *Risk assessment.* The risk assessment procedures that FDA used in this evaluation are similar to the methods that the agency has used to examine the risk associated with the presence of minor carcinogenic impurities in various other food and color additives. The risk evaluation of the carcinogenic impurity *p*-toluidine has two aspects: (1) Assessment of the worst-case exposure to the impurity from the proposed use of the color additive, and (2) extrapolation of the risk observed in the animal bioassays to the conditions of probable exposure to humans.

C. Exposure to the Impurity

As explained above, FDA estimates that the maximum level of exposure to D&C Violet No. 2 from its use in coloring polymethylmethacrylate intraocular lens haptics is 1.1 nanograms per person per day. Under the current specifications for D&C Violet No. 2, the level of *p*-toluidine in the color additive is not to exceed 0.2 percent. Thus, the maximum exposure to *p*-toluidine that will result from the daily use of polymethylmethacrylate intraocular lens haptics colored with D&C Violet No. 2 that complies with the applicable specifications is 2.2 picograms per day.

D. Risk Extrapolation

FDA has estimated the upper-bound level of human risk from potential exposure to *p*-toluidine from use of D&C Violet No. 2 for coloring polymethylmethacrylate intraocular lens haptics by extrapolating from the risk observed at the level of exposure in the NCI-sponsored animal studies to the very low level of estimated exposure for humans. The agency used a quantitative risk assessment procedure (linear proportional model) to extrapolate from the dose used in the animal experiments to the very low doses encountered under the proposed conditions of use. This procedure is not likely to underestimate the actual risk from very low doses and may, in fact, exaggerate the actual risk because the extrapolation models used are designed to estimate the maximum risk consistent with the data. For this reason, the estimate can be used with confidence to determine to a reasonable certainty whether any harm will result from the proposed conditions and levels of use of the color additive.

Based on a worst-case exposure of 2.2 picograms per person per day, FDA estimates that the upper-bound limit of individual lifetime risk from the potential exposure to *p*-toluidine from the use of D&C Violet No. 2 for coloring polymethylmethacrylate intraocular lens haptics is 1.5×10^{-13} or one in 6.7 trillion (Ref. 4). Because of the numerous conservatisms in the exposure estimate, lifetime-averaged individual exposure to *p*-toluidine is expected to be substantially less than the estimated daily intake. Therefore, the calculated upper-bound risk would be less than 1.5×10^{-13}. Thus, the agency concludes that there is a reasonable certainty of no harm from exposure to *p*-toluidine that results from the proposed use of the color additive.

E. Specifications

D&C Violet No. 2 is currently produced as a certified color additive

for use in externally applied drugs and cosmetics, in sutures, and in contact lenses in accordance with 21 CFR part 80. Based upon the low level of exposure to *p*-toluidine that results under the current specifications for D&C Violet No. 2 in § 74.1602 (21 CFR 74.1602), the agency concludes that the specifications in § 74.1602 are adequate to assure the safe use of this color additive and to control the amount of *p*-toluidine that may exist as an impurity in the color additive when used in polymethylmethacrylate intraocular lens haptics.

VI. Conclusion

Based upon the available toxicity data and the other relevant considerations above, FDA concludes that there is a reasonable certainty that no harm will result from the petitioned use of D&C Violet No. 2 for coloring polymethylmethacrylate intraocular lens haptics when it is used at a level not to exceed 0.2 percent by weight of the haptic material. The agency also concludes on the basis of available data that the color additive will perform its intended coloring effect in polymethylmethacrylate intraocular lens haptics and thus, is suitable for this use.

The agency, therefore, is amending § 74.3602 (21 CFR 74.3602) of the color additive regulations to provide for use of the color additive at a maximum level of 0.2 percent in polymethylmethacrylate haptics. The agency is also transferring, editorially, the listing for the uses of the color additive in sutures from § 74.1602 *D&C Violet No. 2* (21 CFR 74.1602), under Subpart B—Drugs to § 74.3602 *D&C Violet No. 2* (21 CFR 74.3602), under Subpart D—Medical Devices, so that medical device uses for this color additive will be listed uniformly. Therefore, § 74.1602 is amended by revising paragraph (c) and § 74.3602 is amended by revising paragraph (b)(2) and adding new paragraphs (b)(3) and (b)(4) as set forth below.

In accordance with § 71.15(a) (21 CFR 71.15(a)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 71.15(b), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

VII. Environmental Impact

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

VIII. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be reviewed by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Weisburger, E. K., et al., "Testing of Twenty-one Environmental Aromatic Amines or Derivatives for Long-Term Toxicology or Carcinogenicity," Journal of Environmental Pathology and Toxicology, 2:325–356, 1978.

2. Memorandum dated May 17, 1989, from Food and Color Additives Review Section to Indirect Additives Branch, "CAP 9C0216—Iolab. D&C Violet No. 2 as a Color Additive to Color Supporting Haptics for Intraocular Lenses. Submissions Dated 12–13–88 and 4–4–89."

3. Kokoski, C. J., "Regulatory Food Additive Toxicology" in Chemical Safety Regulation and Compliance, Eds., F. Homburger and J. K. Marquis, S. Karger, New York, pp. 24–33, 1985.

4. Memorandum of Conference of the Cancer Assessment Committee, "Para-Toluidine," February 24, 1981.

5. Report of the Quantitative Risk Assessment Committee, "Upper-Bound Risk for *p*-Toluidine in D&C Violet No. 2 Used as a Colorant in Intraocular Polymethylmethacrylate Supporting Haptics of IOLAB Intraocular Lenses in Color Additive Petition 9C0216," October 18, 1989.

IX. Objections

Any person who will be adversely affected by this regulation may at any time on or before June 6, 1990. File with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday. FDA will publish notice of the objections that the agency has received or lack thereof in the **Federal Register.**

List of Subjects in 21 CFR Part 74

Color additives, Cosmetics, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 74 is amended as follows:

PART 74—LISTING OF COLOR ADDITIVES SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR part 74 continues to read as follows:

Authority: Secs. 201, 401, 402, 403, 409, 501, 502, 505, 601, 602, 701, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 341, 342, 343, 348, 351, 352, 355, 361, 362, 371, 376).

2. Section 74.1602 is amended by revising paragraph (c) to read as follows:

§ 74.1602 D&C Violet No. 2.

* * * * *

(c) *Uses and restrictions.* The color additive D&C Violet No. 2 may be safely used for coloring externally applied drugs in amounts consistent with good manufacturing practice.

* * * * *

3. Section 74.3602 is amended by revising paragraph (b)(2) and by adding new paragraphs (b)(3) and (b)(4) to read as follows:

§ 74.3602 D&C Violet No. 2.

* * * * *

(b) * * *

(2) D&C Violet No. 2 may be safely used for coloring sutures for use in surgery subject to the following conditions:

(i) At a level not to exceed 0.2 percent by weight of the suture material for coloring polyglactin 910 (glycolic-lactic acid polyester) synthetic absorbable sutures for use in general and ophthalmic surgery; and

(ii) At a level not to exceed 0.3 percent by weight of the suture material for coloring polydioxanone synthetic

absorbable sutures for use in general and ophthalmic surgery.

(3) The color additive, D&C Violet No. 2, may be safely used for coloring polymethylmethacrylate intraocular lens haptics at a level not to exceed 0.2 percent by weight of the haptic material.

(4) Authorization for these uses shall not be construed as waiving any of the requirements of sections 510(k), 515, and 520(g) of the Federal Food, Drug, and Cosmetic Act with respect to the medical devices in which the color additive is used.

* * * * *

Dated: April 30, 1990.

Ronald G. Chesemore,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 90-10507 Filed 5-4-90; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Parts 25 and 203

[Docket No. R-90-1431; FR-2491]

RIN 2502-AE52

Actions to Reduce Losses in FHA Insurance Programs

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This rule implements section 407(b) of the Housing and Community Development Act of 1987. The rule would require a mortgagee, upon notification by the FHA Commissioner that it had a higher than normal rate of early serious defaults and insurance claims during the preceding year, to submit a report to the Commissioner and, if applicable, a plan and timetable for any necessary corrective action.

DATE: *Effective date:* This rule is effective on June 7, 1990, except for § 203.8(b), which will not be effective until after the approval of the information collection requirement in that section and issuance of an approval number by the Office of Management and Budget (OMB). HUD will publish a separate notice announcing the effective date of § 203.8(b) and the OMB approval number.

FOR FURTHER INFORMATION CONTACT: William Heyman, Director, Office of Lender Activities and Land Sales Registration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone (202) 755-6924, Telecommunications Device for the Deaf (TDD) Number, 755-3938. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The information collection requirements contained in this rule have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980. No person may be subjected to a penalty for failure to comply with these information collection requirements until they have been approved and assigned an OMB control number. The OMB control, when assigned, will be announced by separate notice in the **Federal Register**. Public reporting burden for the collection of information requirements contained in this rule are estimated to include the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Information on the estimated public reporting burden is provided under the Preamble heading, *Findings and Certifications*. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Department of Housing and Urban Development, Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, DC 20410; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20530.

Section 407(b) of the Housing and Community Development Act of 1987 adds a new section 533 to the National Housing Act. Since section 533 is relatively brief, and since the public comments on this rule and HUD's responses to them make, implicitly or explicitly, frequent reference to it, it is here quoted in full:

Direction to the Secretary to Require Mortgagees with Above Normal Rates of Early, Serious Defaults and Claims To Submit Reports and Take Corrective Action

Sec. 533. (a) To reduce losses in connection with mortgage insurance programs under this Act, the Secretary shall review, at least once a year, the rate of early serious defaults and claims involving mortgagees approved under this Act. On the basis of this review, the Secretary, shall notify each mortgagee which, as determined by the Secretary, had a rate of early serious defaults and claims during the preceding year which was higher than the normal rate for the geographic area or areas in which that mortgagee does business. In the notification, the Secretary shall require each mortgagee to submit a report, within a time determined by the Secretary, containing the mortgagee's (1) explanation for the above normal rate of early serious defaults and claims; (2) plan for corrective action, if applicable, both with regard to (A) mortgages in default; and (B) its mortgage-processing system in general; and (3) a timeframe within which this corrective action will be begun and completed. If the Secretary does not agree with this timeframe or plan, a mutually agreeable timeframe and plan will be determined.

(b) Failure of the mortgagee to submit a report required under subsection (a) within the time determined by the Secretary or to commence or complete the plan for corrective action within the timeframe agreed upon by the Secretary may be cause for suspension of the mortgagee from participation in programs under this Act.

This rule implements section 533 by setting forth its requirements in a new § 203.8 to be added to 24 CFR part 203. Under this new section, in order to be approved for continued participation in the HUD-FHA mortgage insurance programs, both single family and multifamily, a mortgagee must, if notified by the Commissioner that it had a rate of early serious defaults and claims on FHA-insured or coinsured mortgages during the preceding year or recent years higher than the normal rate for the geographic area or areas in which it does business, submit a report to the Commissioner within 60 days. The report must contain an explanation for the above normal rate of early serious defaults and claims and, if applicable, a plan for corrective action with regard to mortgages in default and its mortgage processing system in general. If a mortgagee determines that no corrective action is necessary, it must explain the reason why such action is not required. It shall be at the discretion of the Commissioner to require a corrective plan irrespective of a mortgagee's explanation for the above rate of early serious claims and defaults. A mortgagee shall also submit a timeframe within which any necessary corrective action will be begun and completed. If the Commissioner does not agree with this timeframe or plan, a revised timeframe and plan acceptable to the Commissioner will be submitted.

By "normal rate" for early serious defaults or early claims is meant the rate of defaults and claims on FHA insured mortgages for the geographic area served by a HUD field office within which the mortgagee does HUD-FHA business.

By "early serious defaults or claims higher than the normal rate" is meant a significant deviation, as determined by HUD-FHA, from the normal rate of early serious defaults and claims on FHA insured mortgages for the geographic area served by a HUD field office. Mortgages in default 90 or more days within one year after endorsement or mortgages on which the Commissioner has paid a claim within

18 months after endorsement are considered as being in early serious default or claim status.

Section 533 also provides for suspension from participation in FHA mortgage insurance programs in cases of noncompliance with its requirements. The rule implements this provision by adding, as a ground for an administrative action by the Mortgage Review Board, a failure to meet section 407(b) requirements (24 CFR 25.9). The initial sanction for noncompliance would include reprimand, probation and suspension. Further failure to take action under the initial sanction could result in withdrawal of approval as a HUD-FHA mortgagee.

On May 22, 1989 the Department published a proposed rule (54 FR 21978) designed to implement section 533. Since that time the Department of Housing and Urban Development Reform Act of 1989, Pub. L. 101–235, approved December 15, 1989 was enacted. That law contained provisions, including but not limited to the establishment, within HUD, of a Chief Financial Officer and an FHA Comptroller. These changes indicate increased emphasis will be given by HUD to financial management activities in the immediate future. In addition, the Department of HUD Reform Act of 1989 contains provisions authorizing the imposition of civil money penalties on mortgagees. This final rule, implementing a specific statutory directive, can be considered a part of this larger program for improved financing management.

A total of 10 public comments were received concerning HUD's proposed rule. Three from private HUD mortgagees (mainly mortgage bankers), one from a private consultant, three from National trade associations, one from a state trade association, and two from state housing finance agencies. The comments were substantive and raised specific points concerning the proposed rule. The major points raised are described below.

(1) *What items should be required in the mortgagee's report?* The Department, in its proposed rule expressly asked that public commenters address this question. The request went on to state:

> At the very least, it would seem that the report should contain the lender's analysis of the mortgages in serious default, or in early claims status and, based upon the results of the analysis, an explanation of the changes in origination and underwriting procedures and policies that the lender will undertake to reduce its defaults and claims.

Three commenters responded to this question. Major points raised by the commenters are:

- Why not have a mandated reporting form? We believe it will be necessary for HUD to develop a standard report form for this project. Any report form used should be quite specific in the information requested in order to minimize reporting costs and to allow standardized review. The proposal offers no guidance on the extent of reporting required, or what HUD will consider a satisfactory response. If lenders are allowed to prepare their own report form, untold hours of HUD staff time may be wasted in an attempt to run down information contained in different locations on every report.
- While we tend to agree with HUD's proposal that the mortgagee's report should include the lender's own listing and analysis of mortgages in serious default and their plans to reduce defaults and claims, the requirement could be simplified. It would be more reasonable to simply summarize by categories related to the cause of default. Again, the geographic area of the lender is going to have to be considered as this will have an impact on their improvement plans. A lender operating in just one local area that has suffered an economic downturn is perhaps operating in a situation over which they have little control, and their only avenue in reducing "above-average" delinquencies and claims would be to stop making FHA loans until the economy turns around. On the other hand, a nationwide lender with high losses may have an inefficient overall collection system which can be corrected, or changes may be indicated only in certain locations."
- Assuming that FHA provides the case numbers of the affected cases, it would be reasonable to request that lenders provide individual case responses. However, in the event that the lender finds that the defaults are caused by the same basic reason (e.g., plant closing), individual responses would not be necessary.
- We believe that the first inquiry should focus on the nature of the problem. To ask the lender what changes it plans to makes clearly implies that the lender was at fault in the origination of these loans. While the lender may volunteer such information in the event their review discloses an internal problem, MBA does not believe that such information should be mandatory in the first response. After HUD reviews the lender analysis of the "early" defaults, a response by the lender explaining what changes it plans to make may be merited. However, MBA believes that FHA should only require such an explanation after FHA's analysis of the lender's response indicates that the lender's origination practices may be part of the problem. For example, when one lender investigated early defaults in response to a HUD letter in 1988, the majority of defaults were caused by early assumptions which at the time was permissible in HUD programs. In this case, we believe that no change in the lender's origination practices was necessary.

HUD Response. The Department does not believe that a standard report form is appropriate to determine whether a lender's claim and default rate is a cause of concern or whether corrective action is warranted. The Department will identify and provide, to each lender notified that it has a higher than normal rate of early serious default and claims, a list specifying the HUD-FHA insured mortgages involved. The lender must perform an analysis of the causes of the early defaults and claims and provide the Department with an explanation.

The Department expects lenders to review the individual loans, or a representative sample of the loans, to determine whether its underwriting or servicing practices are a part of the problem. In submitting a report, the Department expects lenders to provide the following information: (1) Analysis of the early claims and defaults; (2) description of the causes of the early claims and defaults, and if appropriate, changes that the lender has or will make in underwriting or servicing procedures to reduce its claims and defaults. Finally the lender should provide a description of its loan underwriting and servicing procedure including its quality control procedures. The Department recognizes that factors attributable to general economic conditions in the geographic area where a lender conducts business can have an adverse impact on its claim and default rates. Accordingly, in such instances the lender's explanation would address this point showing that these adverse conditions rather then the lender's own activities account for explain the greater than normal rate of early claims and defaults.

In asking the lender to explain what changes they have made, or intend to make in their operations, the Department does not imply that the lender activities are always the cause of above-normal claim and default rates. However if, in its analysis, a lender determines its procedures may have contributed to the problem, the Department expects the lender to describe the actual or contemplated actions that will be taken to address the problem.

(2) *Should HUD require the lender's report to include an analysis of its servicing and quality control functions?* This question was also raised by the Department. Three commenters responded. Typical was the response of the U.S. League of Savings Associations.

> We do not believe that HUD should require every lender's report to include an analysis of its servicing and quality control functions. If the claims record flagged in the report stems from an economic turndown, the lender's analysis of its functions are of little value. Why should such a servicer have to bear the cost of preparing detailed reports when the real problems relate to the general economic turndown? The value of an analysis of the servicing function, when the default relates to loan underwriting or program design, must be

questioned. These problems we have raised are all founded on the overall vagueness of the definition of geographic area and above average default rates.

HUD Response. The Department does not contemplate that a lender's report on early serious claims and defaults will include an analysis of the lender's servicing and quality control functions. The report must, however, contain an analysis of the early defaults and claims, an explanation of the cause and, if appropriate, the changes implemented or to be implemented by the lender. After the Department has analyzed the lender's report, it may require further information from the lender on the implementation of a plan for corrective action.

(3) *Should HUD require the lender's report to contain organizational and administrative information such as the location and structure of its underwriting staff, the compensation system for production and underwriting staff, etc.* This question was expressly raised by HUD in the proposed rule.

Two commenters responded—both in the negative. The response of the U.S. League of Savings Associations was:

> We do not believe HUD should in general require the lender's report to contain organizational and administrative information such as compensation systems, etc. This would be just creating paperwork and only place a burden on the reporting organization for little added benefit. The key requirement is to analyze the lender's mortgages in serious default and their explanation of how these will be corrected. This should be done in the simplest and most efficient manner possible. Any report established by HUD should be one that can also be used by the management of the mortgagee in clearing up their default or claims problem.

HUD Response. The Department believes that in order to evaluate possible causes of a lender's early serious defaults and claims, information with respect to the lender's underwriting and servicing procedures is required. Accordingly, the lender must in its report provide a description of its underwriting and servicing procedures. This includes information on the lender's organizational structure for the underwriting and servicing functions including location of staff such as in branches, regional offices or centralized underwriting.

4. *Regulatory definition of "early serious defaults and claims".* A majority of commenters, either directly or implicitly, questioned the treatment given this statutory concept in the proposed rule.

The new § 203.8 in the proposed rule reads in part "Mortgages in default for 90 or more days within one year after endorsement or mortgages on which the Commissioner has paid a claim within 18 months after endorsement are to be considered as in early serious default or as having resulted in an early claim."

Concern was expresed that implicit in such a definition was a purely statistical approach by HUD which could discourage lenders from serving the most needy borrowers. Since loans with low mortgage amounts and mortgages on properties located in certain inner-city areas have well documented foreclosure rates that are much higher than the claim rate for an entire field office jurisdiction, the proposed rule's statistical criteria could send a message that lenders should avoid such high risk loans in the future.

One commenter, the Mortgage Bankers of America, made the specific recommendations that:

> To avoid discouraging lenders from doing the more risky loans involving low and moderate income families, MBA believes that it is incumbent on HUD to add an additional analytical step before sending out letters. MBA believes that FHA should review foreclosure performance on a much narrower level than field office area. For example, to evaluate lenders making loans in the District of Columbia against mortgagees doing business in Montgomery County, Maryland and Northern Virginia ignores the reality of the significant market differences and the resulting dramatic differences in default rates. While MBA believes field office foreclosure rates is a reasonable starting point, it is essential that FHA does additional analysis at the sub-field office level to determine whether an individual lender's default rate is, in fact, a cause of concern.

HUD Response. In the final rule "early serious defaults and claims higher than the normal rate" is defined in the regulation to mean a significant deviation, as determined by HUD–FHA, from the normal rate of early serious defaults and claims on FHA insured mortgages for the geographic area served by a HUD field office. Mortgages in default 90 or more days within one year after endorsement or mortgages on which the Commissioner has paid a claim within 18 months after endorsement are considered as being in early serious default and claim. The terms "normal rate" for early serious defaults or early claims is, in turn, defined to mean the rate of defaults and claims on FHA insured mortgages for the geographic area served by a HUD field office within which the mortgagee does HUD–FHA business.

In determining whether a lender has a significant rate of early serious claims and defaults, the Department will consider the volume of HUD–FHA insured mortgages originated by the lender. For example, a lender that originates 500 loans in a year and has a claim and default rate of three percent when the average rate for the HUD field offices is two percent would be considered to have a higher than normal rate. However, the Department recognizes that a further analysis may be required before notifying a lender that it has a high claim and default rate. Since the HUD field office rate is the base upon which the determination is made as to whether or not the lender's claim and default rate is higher than normal, a lender with a rate of six percent operating in a field office jurisdiction that has a high average rate, for example, five percent, may not be experiencing a claim and default rate significantly above the normal rate for the area. In evaluating a lender's rate, the Department will also give consideration to the areas where a lender does business, such as inner-city areas where claim and default rates may be higher than the rates for the entire HUD Field office jurisdiction. The Department is concerned that an undue burden not be placed on those lenders and the availability of HUD–FHA financing restricted.

5. *Measuring "early serious default".* One commenter questioned HUD's standard noting "If a loan is in default (90 days delinquent) in the first year, there can be numerous legitimate reasons for the default (e.g. loss of job and divorce) over which the lender has no control. The definition should be tightened to include only mortgages which go into default in the first six months. In this way, HUD is targeting loans with the most likelihood for fraud or abuse by someone in the transaction."

HUD Response. The Department believes, based on operating experience, that the proposed standard of a 90-day default within one year from the date of endorsement represents a valid measure of an early serious default for purposes of measuring lender's default rates. The Department presently targets for mortgagee monitoring purposes, loans that go into default within one year from the date of endorsement.

6. *Modify rule (or its administration) to take account of special needs of State and local housing finance agencies carrying out programs for low and moderate income persons.* Three commenters made this recommendation. Because of the very nature of these programs, agencies would probably be subject to the administrative burden of continual annual review under the rule. This is true despite the fact that in many instances these agencies are much more

diligent in their mortgage review and servicing than conventional secondary market programs.

HUD Response. The Department recognizes the role that state and local housing finance agencies perform in providing housing for low- and moderate-income persons. The Department will take into account the purpose served by such agencies so that an undue administrative burden is not created. However, where the Department makes a determination that a significant deviation from the normal rate of early serious defaults and claims exists, such agencies will be required to submit a report, and if appropriate, implement a plan for corrective action.

Findings and Certifications

Environmental considerations. A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street, SW., Washington, DC 20410.

Executive Order 12291. This rule does not constitute a "major rule" as that term is defined in section 1(d) of the Executive Order on Federal Regulations issued by the President on February 17, 1981. An analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act. In accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule applies equally to small and large entities. If anything, carrying out any necessary corrective actions should be less complex and easier for smaller entities. In addition, the statute is mandatory, providing little (if any) room for distinguishing between large and small entities in its implementation.

Semiannual Agenda. This rule was listed as Item No. H–28–88 (Sequence No. 1173 in the Department's Semiannual Agenda of Regulations published on April 23, 1990 (55 FR 16226, 16247)) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

Executive Order 12612, Federalism. The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies contained in this rule do not have federalism implications and, thus, are not subject to review under the Order because the rule merely provides, at statutorily direction, a reporting requirement for certain FHA mortgagees who are receiving the benefits of participation in already-established FHA insurance programs.

Executive Order 12606, the Family. The General Counsel, as the Designated Official under Executive Order 12606, *the Family*, has determined that this rule does not have potential significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the Order. In addition to reducing FHA losses, its aim is to prevent unnecessary and wasteful defaults by mortgagors, especially homeowners.

Information collection. The collection of information requirements contained in this rule have been submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act of 1980. Section 203.8 of this rule has been determined by the Department to contain a collection of information requirements. Information on these requirements is provided as follows:

ESTIMATED REPORTING BURDEN OF PROPOSED RULE

New requirement	Description of information collection	Form used	Number of respondents and number of responses per respondents
Actions to reduce losses in FHA programs; Section 407(b) of the Housing and Community Development Act of 1987. Section 203.8.	Prepared and submit report and description of proposed corrective action with respect to early serious defaults and Claims in connection with FHA-insured mortgages.	No prescribed form	200 mortgagees (1 response each).
Hours per response and total annual hours	Average cost per respondent	Estimated annually	
40 hours (8,000 hours)	$15 per hour (average cost per hour for staff time).	$120,000	

List of Subjects

24 CFR Part 25

Administrative practice and procedure, Mortgages, Organization and functions (Government agencies).

24 CFR Part 203

Home improvement, Loan programs: housing and community development, Mortgage insurance, Solar energy.

Accordingly, 24 CFR parts 25 and 203 are amended as follows:

PART 25—MORTGAGEE REVIEW BOARD

1. The authority citation for 24 CFR part 25 is revised to read as follows:

Authority: Sec. 211, National Housing Act (12 U.S.C. 1715b); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. Section 25.9 is amended by adding a new paragraph (x) to read as follows:

§ 25.9 Grounds for an administrative action.

* * * * *

(x) Failure to submit a report required under 24 CFR 203.8 within the time determined by the Commissioner, or to commence or complete a plan for corrective action under that section within the timeframe agreed upon by the Commissioner may result in initial sanctions under 24 CFR 25.5(a)–(c). Failure to take the action required under the intital sanction may result in an action under 24 CFR 25.5(d).

PART 203—MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS

3. The authority citation for 24 CFR part 203 continues to read as follows:

Authority: Secs. 203 and 211, National Housing Act (12 U.S.C. 1709, 1715); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)). In Addition, subpart C is also issued under sec. 230, National Housing Act (12 U.S.C. 1715u).

4. 24 CFR part 203 is amended by adding a new § 203.8 to read as follows:

§ 203.8 Report requirements.

(a) *Definitions.* For the purpose of this section:

(1) *Normal rate* for early serious defaults and early claims means the rate of defaults and claims on FHA insured or coinsured mortgages for the geographic area served by a HUD field office within which the mortgagee does HUD–FHA business.

(2) *Early serious defaults or claims higher than the normal rate* means a significant deviation, as determined by HUD–FHA, from the normal rate of early serious defaults and claims on FHA insured mortgages for the geographic area served by a HUD field office. Mortgages in default 90 or more days within one year after endorsement or mortgages on which the Commissioner has paid a claim within 18 months after endorsement are considered as being in early serious default and claim. (By "endorsement" the Department means initial endorsement or initial/final endorsement, as applicable, with respect to multifamily mortgages).

(b) *Requirements.* If a mortgagee approved for participation in the HUD–FHA insurance programs under § 203.1 through 203.7 of this part is notified by the Commissioner that it had a rate of early serious defaults or early claims on FHA-insured mortgages during the preceding year, or during recent years, which was higher than the normal rate for the geographic area or areas in which it does business, it shall submit a report, within 60 days, containing an explanation for the above normal rate of early serious defaults or early claims and, if applicable, a plan for corrective action with regard to mortgages in default and its mortgage processing system in general. If a mortgagee determines that no corrective action is necessary, it must explain the reason why such action is not required. It shall be at the discretion of the Commissioner to require a corrective plan irrespective of a mortgagee's explanation for the above normal rate of early serious claims and defaults. A mortgagee shall also submit a timeframe within which any necessary corrective action will be begun and completed. If the Commissioner does not accept this timeframe and plan, a revised timeframe and plan acceptable to the Commissioner will be submitted.

Dated: April 27, 1990.

Alfred A. DelliBovi,

Acting Secretary.

[FR Doc. 90–10477 Filed 5–4–90; 8:45 am]

BILLING CODE 4210–32–M

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24 CFR Parts 200 and 205

[Docket No. R–90–1448; FR–2677–F–02]

RIN 2501–AA84

Mortgage Insurance for Land Development; Title X of the National Housing Act—Termination of Program

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: In accordance with section 133 of the Department of Housing and Urban Development Reform Act of 1989, which repealed title X of the National Housing Act, this final rule terminates the mortgage insurance program authorized under title X, and removes the regulations issued thereunder.

EFFECTIVE DATE: June 7, 1990.

FOR FURTHER INFORMATION CONTACT: Edwin W. Baker, Single Family Development Division, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. Telephone (202) 755–6720. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Section 133 of the Housing and Urban Development Reform Act of 1989 (Pub. L. 101–235, approved December 15, 1989) repealed Title X of the National Housing Act (12 U.S.C. 1749aa–1749ii). Under title X, HUD was authorized to insure mortgages covering land to be developed and related improvements for new communities. Permissible improvements included water supply and sewage disposal installations, steam, gas, and electric lines, roads, streets, storm drainage facilities, and other installations.

With the repeal of title X by section 133 of the Act, HUD no longer has authority to insure mortgages covering land development and associated improvements, except insofar as section 133(b) provides that:

> On or after the date of enactment of this Act [*i.e.*, December 15, 1989], no mortgage may be insured under Title X, as such title existed immediately before such date, except pursuant to a commitment to insure made before such date.

A savings provision in section 133(c) states that: Any contract entered into under title X before the date of enactment of this Act shall be governed by the provisions of such title as such title existed immediately before such date.

Prior rulemaking

On August 11, 1989 (54 FR 33039), HUD published a proposed rule advising that the Department proposed to terminate the title X program. In that rule, the Department referenced Secretary Kemp's June 28, 1989 announced intention to suspend the program. In the announcement, as summarized in the proposed rule, the Secretary had advised that the Department would—

> discontinue the processing of Title X applications that had not received a legally binding commitment by June 29, 1989, and would return application fees. Projects with legally binding commitments issued before June 29, 1989 would be eligible for insurance, subject to a specific examination for evidence of fraud or misrepresentation.

The August 11, 1989 proposed rule also stated that it was on the basis of the following factors that the proposed termination of the Title X program was predicated:

> * * * The serious adverse financial condition of the program, its inability to meet its statutory goals, [the fact that] the program would not be an effective way of correcting these deficiencies, and the fact that its termination would have virtually no effect on the availability of financing for land development across the Nation.

Id. Additionally, the rule contained a detailed discussion and justification of each of the factors cited to support the program's termination. Finally, the rule solicited public comment on the proposed termination.

Public Comment

Seven public comments were received in response to the rule's solicitation. Generally, the comments were mixed—three commenters favored termination of the program; the others advocated continuation of the program or its restructuring. Following are the Department's responses to specific points raised by commenters.

One commenter urged HUD not to terminate the processing of projects in the pipeline, but to review each on a case-by-case basis to determine whether it should be approved. The commenter argued that this approach would be fair to those applicants that had expended large sums, "following existing HUD guidelines in good faith," in developing projects that will not now be financed without Title X insurance.

In the Department's view, a project that is unable to obtain financing without Title X insurance is arguably an unacceptable insurance risk. HUD's experience is that even those projects

that were approved under the now-repealed regulations presented a more than forty percent chance of default and assignment to HUD.

When the proposed rule was published, there were more than twenty projects in the pipeline. Based upon HUD's experience, the mortgage amount represented by these projects would exceed $250 million, and HUD's potential loss exposure, using the forty percent loss rate, $100 million. HUD has concluded that such potentially heavy losses are unacceptably high; thus, the only prudent solution was for HUD to terminate processing of all the Title X projects that have not already received a legally binding commitment from the Department.

The Department understands that the decision not to continue processing of projects, especially those that may have been financially sound but had not received a commitment before the program's termination, may cause hardship (e.g., unrecoverable expenditures) in some cases. However, even the argument that some projects would have been successful is based on a statistical probability (*i.e.*, a 60/40 success/failure rate) that cannot identify, individually, potentially successful projects. Consequently, the Department does not believe that the possibility of some indeterminate success offsets the risk of financial loss to the insurance fund, were some of the projects in the pipeline covered by Title X mortgage insurance.

One commenter advocated salvaging the Title X program by allowing it "to be converted to public lenders such as the direct endorsement and coinsurance programs." The Department's experience with the coinsurance program, as enunciated by Secretary Kemp in a press statement issued on January 17, 1990, is that it is "structurally flawed and fundamentally unsound as well as administratively unfixable." The Secretary's comments were made as he announced the proposed termination of the coinsurance program as a result of its "numerous defaults and losses." The history of the coinsurance program then, in the Department's view, does not bode well for a Title X program administered by public lenders, as advocated by the commenter.

Additionally, as a general response to this comment, it is the Department's veiw that many of the problems with Title X and with acquisition and development (A & D) lending in general are inherent in the program and the product. A significant portion of the loss suffered by savings and loan associations was due to poorly underwritten A & D loans. To be successful, A & D loans require significant risk on the part of both the developer and the lender; thus, the more a lender is sensitive to local conditions, the better its chances for successful A & D program.

In HUD's case, administering a nation-wide program such as Title X poses inherent problems. The principal disadvantage is that HUD, as opposed to a local lender, cannot be as knowledgeable about local conditions, and therefore is unable, at short notice, to modify the program to accommodate to rapidly changing conditions. Moreover, HUD is at a further disadvantage with respect to modifying this or any other regulatory program, because the very nature of rulemaking militates against frequent program revisions to suit ever-changing local conditions.

As a final note in this regard, HUD believes that because Title X loans are non-recourse loans and are 100 percent insured, a developer's/lender's risk in a project is so minimal that it significantly increases the risk of careless underwriting.

Some commenters proposed a restructuring of the Title X program. In their view, the program's problems stemmed from departmental apathy, staff inadequacies, or marginal and financially weak developers—not because the program was inherently "deficient." The view also was advanced that proper underwriting and administration could reduce the risk of loss to an acceptable level. One commenter recommended limiting "the size of loans to a level that could be developed within one year and marketed within two years." Another commenter argued that Title X could be successful if its focus was on more affluent areas, and if the dollar limits in the section 203(b) program of the National Housing Act were raised. One commenter asked rhetorically, "How is it that HUD officials are able to provide effective administrative oversight for all programs except Title X?" This commenter also questioned HUD's conclusion that revisions to the program would be "pointless" and not help the targeted clientele, if, by HUD's own admission, the program has never served the targeted builders and homebuyers.

Restructuring of the Title X program is now a moot point in light of its repeal by section 133. Nevertheless, even absent this legislative action, HUD believes that there is overwhelming empirical evidence supporting termination of the program.

As alluded to above, the Department does not believe that a real need exists for the Title X program. The program has averaged only five insured loans per year since 1967. This represents insured loans of less than one hundredth of one percent of the subdivisions developed during that period. For example, there have been no Title X loans in the Boston area, none in metropolitan New York City, none in Philadelphia or its suburbs, one within the last ten years in metropolitan Washington, DC, and none in Atlanta. There have been fewer than six in the metropolitan Los Angeles area and only two in the San Francisco market. Since 1967, there has been dramatic residential growth in all of these markets and the associated land development has been financed without Title X insurance.

The Department has two other objections to proposals to restructure the program. First, experience shows that title X insured loans and A & D loans funded by the S & L industry are highly risky. For the Department to operate such a program on a fiscally sound basis, it has been projected that an insurance premium in excess of five percent (5%) would be required. This cost would be a significant disincentive to program participants. Second, even if the Department could develop a prudent, fiscally sound land development program which met a real need in the market and which captured—say—five percent to ten percent of the market for such loans, it would mean in increase of Title X staff in HUD Headquarters and in the Field Offices of 50 to 100 times the existing available staff. To cope with the quantity of anticipated work that could be generated from such a program not only would require this increased level of staffing, but also would require a massive commitment to training, handbook production, program revision, etc. It is unlikely that such a massive effort could be completed in less than a year, and even when completed, the program might be as little-used as the current program. In HUD's view, it would not have benefitted the Department or the industry to invest already-limited resources to revise a program with such a weak record.

Findings and Certifications

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection

between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk at the above address.

This rule does not constitute a "major rule" as that term is defined in section 1(d) of the Executive Order on Federal Regulations issued by the President on February 17, 1981. An analysis of the rule indicates that it does not (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The elimination of the program does not have a significant economic impact, since conventional insurance for land development projects is available and is used by developers much more frequently than is Title X. As noted above, approximately .01 percent of subdivisions in the United States were developed under Title X. Moreover, because few Title X-insured mortgages are provided to small entities, HUD does not believe that a substantial number of small entities will be affected.

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this rule does not have potential for significant impact on family formation, maintenance, and general well-being. While the rule eliminates a mortgage insurance program that furthers the development of subdivisions available for housing for families, relatively few lots are developed annually under the program, and alternative conventional financing is available. HUD, thus, does not believe that the rule has significant "family impact."

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that this rule does not involve the preemption of State law by Federal statute or regulation and does not have "federalism implications." The rule eliminates a little-used mortgage insurance program to assist private developers. It should have no appreciable impact on State or local governments.

This rule was listed as Item 1130 in the Department's Semiannual Agenda of Regulations published on April 23, 1990 (55 FR 16226, 16237) under Executive Order 12291, Federal Regulation, and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program number is 14.125.

List of Subjects

24 CFR Part 200

Administrative practice and procedure; Claims; Equal Housing Opportunity; Fair Housing; Housing standards; Loan programs; housing and community development; Mortgage insurance; Organization and functions (Government agencies); Reporting and recordkeeping requirements; Minimum Property Standards; Incorporation by reference.

24 CFR Part 205

Community facilities, Mortgage insurance, Land development.

Accordingly, the Department amends 24 CFR parts 200 and 205 as follows:

PART 200—INTRODUCTION

1. The authority citation for part 200 is revised to read as follows:

Authority: Titles I and II, National Housing Act (12 U.S.C. 1701–1715z–18); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

§ 200.27 [Removed]

2. Section 200.27 is removed.

PART 205—MORTGAGE INSURANCE FOR LAND DEVELOPMENT (TITLE X)

3. The authority citation for part 205 continues to read as follows:

Authority: Sec. 1010, National Housing Act (12 U.S.C. 1749jj); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

4. A new § 205.2 is added to read as follows:

§ 205.2 Applicability.

Projects with legally binding commitments issued before June 29, 1989, and projects with notes that were initially endorsed before June 29, 1989, under title X of the National Housing Act will be governed by the eligibility and other requirements of 24 CFR part 205 (subpart A) in effect before June 7, 1990. No other projects will be eligible for insurance under title X.

§ 205.5 through § 205.249 [Removed]

5. Sections 205.5 through 205.249 are removed.

Dated: April 26, 1990.

Jack Kemp,

Secretary.

[FR Doc. 90–10446 Filed 5–4–90; 8:45 am]

BILLING CODE 4210–32–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD7–90–13]

Drawbridge Operation Temporary Regulations; Atlantic Intracoastal Waterway

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: At the request of the City of Boca Raton, the Coast Guard is temporarily changing the regulations governing the Boca Club bridge on Camino Real (SE. 10th Street) at Boca Raton by permitting the number of openings to be limited during certain periods. This temporary change is being made to evaluate the effect on peak season waterway and vehicular traffic.

DATES: These temporary regulations become effective on March 15, 1990 and expire on May 14, 1990.

ADDRESSES: Comments regarding this temporary change should be mailed to Commander (oan) Seventh Coast Guard District, 909 SE. 1st Avenue, Miami, FL 33131–3050. Any comments received will be available for inspection and copying in the Office of the Bridge Administrator located in room 484 at Brickell Plaza Federal Building, 909 SE. 1st Avenue, Miami, FL. Documents and comments concerning this regulation may be inspected Monday through Friday between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Walt Paskowsky (305) 536–4103.

SUPPLEMENTARY INFORMATION: Interested parties submitting written views, comments, data, or arguments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change to the temporary regulation

Drafting Information

The drafters of this notice are Walt Paskowsky, project officer, and LCDR D.G. Dickman, project attorney.

Discussion of Temporary Regulations

The bridge presently opens on signal. This change provides for opening at 15 minute intervals between 7 a.m. and 6

p.m. daily. This temporary schedule will allow the Coast Guard to evaluate the impact on navigation and vehicular traffic during the period of the year when both are at peak levels. Because this is a temporary regulation, it will not appear in the Code of Federal Regulations.

Federalism

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

Economic Assessment and Certification

These temporary regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and non-significant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of this rule is expected to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because the rule exempts tugs with tows. Since the economic impact is expected to be minimal, the Coast Guard certifies that it will not have a significant impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

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

PART 33—[AMENDED]

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

Authority: 33 USC 499; 49 CFR 1.46; 33 CFR 1.05–1g.

2. For the period between March 15, 1990 through May 14, 1990 § 117.261(aa–1) is added to read as follows:

Note.—This is a temporary rule and will not appear in the Code of Federal Regulations.

§ 117.261 Atlantic Intracoastal Waterway, St. Marys River to Key Largo.

* * * * *

(aa–1) Boca Club, Camino Real (SE. 10th Street) bridge, mile 1048.2 at Boca Raton. The draw shall open on signal; except that from 7 a.m. to 6 p.m., the draw need open only on the hour, quarter-hour, half-hour, and three quarter-hour.

* * * * *

Dated: April 24, 1990.

Martin H. Daniell,

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

[FR Doc. 90–10471 Filed 5–4–90; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD–FRL–3761–4]

Standards of Performance for New Stationary Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Technical amendment and correction.

SUMMARY: On February 14, 1990 a document concerning standards of performance for new stationary sources was published in the **Federal Register** (55 FR 5211). This rule did not contain some necessary revisions. The purpose of this action is to make these revisions and to make a minor correction.

EFFECTIVE DATE: May 7, 1990.

FOR FURTHER INFORMATION CONTACT: Candace Sorrell, Emission Measurement Branch (MD–19), Technical Support Division, U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number (919) 541–1064.

SUPPLEMENTARY INFORMATION:

List of Subjects in 40 CFR Part 60

Air pollution control, steam generating units.

Dated: April 24, 1990.

Michael Shapiro,

Acting Assistant Administrator for Air and Radiation.

40 CFR part 60 is amended as follows:

PART 60—[AMENDED]

1. The authority citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401, 7411, 7414, 7416, and 7601.

§ 60.47b [Corrected]

2. The final rule published on February 14, 1990 at (55 FR 5211) is corrected on page 5211, in the third column, in the first line of item 8, by changing "§ 60.47(b)(2)" to read "§ 60.47b(b)(2)".

§§ 60.45, 60.47a, 60.46b and Appendix B [Amended]

3. In 40 CFR part 60, § 60.45(c)(1), § 60.47a(i)(1), § 60.46b(d)(1), in Appendix B section 7.4 of Performance Specification 2, and Appendix B section 3.2 of Performance Specification 3, the words "Method 3" are revised to read "Method 3B".

[FR Doc. 90–10197 Filed 5–4–90; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 261

[SW–FRL–3763–7]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Denial

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA or Agency) today is finalizing its decision to deny a petition submitted by Lake City Army Ammunition Plant (LCAAP), Independence, Missouri, to exclude certain solid wastes generated at its facility from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32. This action responds to a delisting petition submitted under 40 CFR 260.20, which allows any person to petition the Administrator to modify or revoke any provision of parts 260 through 268, 124, 270, and 271 of title 40 of the Code of Federal Regulations, and under 40 CFR 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific" basis from the hazardous waste lists. This rulemaking finalizes the proposed denial for LCAAP's petitioned waste published on August 9, 1989 (see 54 FR 32662). The effect of this action is that this waste must continue to be handled as hazardous in accordance with 40 CFR parts 260 through 268 and the permitting standards of 40 CFR part 270.

EFFECTIVE DATE: May 7, 1990.

ADDRESSES: The public docket for this final rule is located at the U.S. Environmental Protection Agency, 401 M Street SW. (Room M2427), Washington, DC 20460, and is available for viewing from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. Call (202) 475–9327 for appointments. The reference number for this docket is "F–90–LCDF–FFFFF". The public may copy material from any regulatory docket at a cost of $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline, toll free at (800) 424–9346, or at (202) 382–3000. For technical information concerning this notice, contact Bob Kayser, Office of Solid Waste (OS–343), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382–2224.

SUPPLEMENTARY INFORMATION:

I. Background

A. Authority

Under 40 CFR 260.20 and 260.22, facilities may petition the Agency to remove their wastes from hazardous waste control by excluding them from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32. Petitioners must provide sufficient information to EPA to allow the Agency to determine (1) that the waste to be excluded is not hazardous based upon the criteria for which it was listed, and (2) that no other hazardous constituents are present in the waste at levels of regulatory concern.

B. History of the Rulemaking

LCAAP petitioned the Agency for a one-time exclusion of its K046 wastewater treatment sludge disposed of on-site in its south landfill. After evaluating the petition, EPA proposed, on August 9, 1989, to deny LCAAP's petition to exclude its waste from the lists of hazardous waste under 40 CFR 261.31 and 261.32 (see 54 FR 32662).

This rulemaking addresses public comments received on the proposal and finalizes the proposed decision to deny LCAAP's petition.

II. Disposition of Delisting Petition

Lake City Army Ammunition Plant, Independence, Missouri

1. Proposed Exclusion

Lake City Army Ammunition Plant (LCAAP), located in Independence, Missouri, petitioned the Agency to exclude, on a one-time basis, its wastewater treatment sludge disposed on-site in its south landfill cell. LCAAP's treatment sludge is listed as Hazardous Waste No. K046—"Wastewater treatment sludges from the manufacturing, formulation, and loading of lead-based initiating compounds". The listed constituent for EPA Hazardous Waste No. K046 is lead (see 40 CFR part 261, appendix VII).

In support of its petition, LCAAP submitted: (1) Detailed descriptions of its manufacturing and waste treatment processes, including schematic diagrams; (2) a listing of raw materials used in the manufacturing and treatment processes; (3) results of total constituent and EP leachate analyses of various waste samples for the EP toxic metals, nickel, cyanide, and antimony; (4) results of total constituent analyses of representative samples of the waste for methylene chloride, resorcinol, toluene, and 1,1,1-trichloroethane; (5) total oil and grease analysis data on representative waste samples; (6) results from characteristics testing for ignitability, corrosivity, and reactivity tests; and (7) ground-water monitoring data for the unit in which the petitioned waste is managed.

The Agency evaluated the information and analytical data provided by LCAAP in support of its petition and determined that the hazardous constituents found in the petitioned waste could pose a threat to human health and the environment. Specifically, the Agency used its vertical and horizontal spread (VHS) model and Organic Leachate Model (OLM) to predict the potential mobility of the hazardous constituents found in the petitioned waste. The Agency also evaluated ground-water monitoring information submitted in support of LCAAP's petition. Based on these evaluations, the Agency determined that LCAAP failed to substantiate its claim that the hazardous constituents of concern will not leach and migrate at concentrations above the health-based levels used in delisting decision-making. See 54 FR 32662, August 9, 1989, for a more detailed explanation of why EPA proposed to deny LCAAP's petition.

2. Agency Response to Public Comments

The Agency received comments regarding its decision to deny LCAAP's petition from two interested parties. One commenter supported the Agency's proposed decision to deny the petition, concluding that the denial decision was based on the following five criteria: (1) Inadequate sampling and analysis of the petitioned waste, (2) prediction of significant levels of hazardous constituents at a hypothetical compliance point using a specific fate and transport model, (3) lack of a sufficient demonstration that the petitioned waste contains no additional hazardous constituents, (4) inadequacies in the ground-water monitoring system for the Solid Waste Landfill and in the analysis of ground-water samples, and (5) evidence of ground-water contamination originating from the south landfill cell. While all five of these issues are of concern to the Agency, the Agency notes that the decision to deny LCAAP's petition was based on analysis results that indicated the south landfill cell may leach significant concentrations of antimony and lead and that the south landfill cell may have contributed to ground-water contamination (*i.e.*, criteria (2) and (5) listed above). Because the Agency already has sufficient basis to deny LCAAP's petition for the waste, as detailed in the proposed rule, and the issues raised by the commenter do not change the proposed decision, the Agency did not assess whether the other three areas of concern should be included as part of the rationale for denying the petition, as was suggested by the commenter. Therefore, the Agency did not address these comments in today's rule.

The other commenter opposed the Agency's proposed decision to deny LCAAP's petition. The comments submitted covered the following areas: (1) Clarification of the Agency's description of LCAAP's waste disposal activities in the proposed rule, (2) use of the VHS model to evaluate the petitioned waste, (3) petition completeness, and (4) use and interpretation of ground-water monitoring data. The specific comments made by the commenter regarding the Agency's proposed decision to deny the petition, and the Agency's responses to them, are discussed below.

a. *Clarification of Information Presented in the Proposed Rule.* The commenter pointed out that, contrary to the description in the proposed rule, waste oil and grease by-products, which are generated by LCAAP's industrial waste treatment process, are currently disposed of off-site by a specific commercial firm and/or through other approved disposal procedures. (The proposed rule indicated that these waste oil and grease by-products were disposed of in an on-site sanitary landfill. These wastes are not subjects of LCAAP's petition.) The Agency notes that these corrections are editorial in nature and do not alter the Agency's evaluation of LCAAP's petition.

b. *Agency's Use of the VHS Model.* The commenter challenged the Agency's use of the VHS model on two accounts. First, the commenter claimed that the evaluation of the petitioned waste should be based on site-specific considerations because the south landfill cell is the receiving unit for the petitioned waste. The commenter suggested that, at a minimum, the following VHS model parameters should be based on site-specific data: distance to the nearest drinking water well, length of the disposal site, and penetration depth of leachate into the aquifer (the "Z" parameter). The commenter further suggested that the history of a given facility (*e.g.*, the

availability of public water) should also be used by the Agency in the petition evaluation process. Second, the commenter believed, based on the fact that the petition is for a one-time exclusion of a specific volume of waste, LCAAP would accept a petition approval conditioned upon the petitioned waste remaining in place. The commenter believed that, at a minimum, the Agency's evaluation should allow waste exclusions to be "permitted" on site-specific conditions.

The commenter noted twice in its response that the Agency's justification for using a generic fate and transport model is that, once delisted, a waste is no longer subject to Subtitle C control and thus its final disposition is not controlled. The Agency maintains this same justification in responding to the commenter's claim that the evaluation of LCAAP's petitioned waste should be based on site-specific considerations. The Agency evaluates all delisting petitions with the understanding that, if the petitioned waste is excluded, it will be removed from Federal regulation as a hazardous waste. EPA also recognizes that future handling and management of an excluded waste will be regulated in accordance with Subtitle D criteria, depending on how a facility chooses to manage its excluded waste. Although the commenter states that the petitioned waste was placed in the south landfill cell "as a final disposition means" and that the landfill is regulated as a landfill for industrial wastewater treatment plant sludge by the Missouri Department of Natural Resources, the Agency notes that the petitioned waste may in the future be removed from the south landfill cell. Thus, the Agency, if it were to exclude the waste, would have no guarantee that the petitioned waste would remain in place. Furthermore, the petitioned waste might be relocated to a disposal site having different dimensions and characteristics (*e.g.*, length of the disposal unit, distance to the nearest drinking water well, historical considerations such as availability of public water).

The Agency also does not believe that delisting evaluations should be based on the prediction of future storage or disposal conditions (such as the waste remaining in place). Again, the Agency maintains that its formulation of a delisting decision is waste-specific, not disposal-site specific. As such, the Agency does not believe that it is appropriate to establish conditions in a waste exclusion that specify the disposal practices of LCAAP's waste. For the reasons discussed above, the Agency believes that the use of a generic fate and transport model, such as the VHS model, is appropriate to model a reasonable worst-case disposal scenario in the evaluation of LCAAP's petitioned waste.

c. *Petition Completeness.* The commenter believed that petition incompleteness should not be used as a basis for petition denial when the Agency failed to request data necessary to complete the petition. In addition, the commenter stated that, based on Executive Order 12088 (dated October 13, 1978), the Agency is required to provide LCAAP with technical assistance (*i.e.*, guidance necessary to address the Agency's concerns regarding the inadequacies of the petition).

As stated previously, the Agency's decision to deny LCAAP's petition is not based on the lack of information in the petition LCAAP provided. The Agency acknowledges that LCAAP has responded to various requests for specific additional data. Nevertheless, the Agency does not believe that it is necessary to require a petitioner to submit a "complete" petition if the available information in an incomplete petition is sufficient to demonstrate that the petitioned waste is a hazardous waste. To do so would place an unnecessary expense and burden on the petitioning facility. For example, the Agency believes that it would be unreasonable to require a facility to provide extensive analysis results for hazardous organic constituents if the petitioned waste was already shown to exhibit significant levels of chromium and cadmium. The Agency also believes that additional sampling and analysis to "complete" the existing petition may only serve to delay the same conclusion.

Regardless of LCAAP's willingness to supply additional information at this time, EPA firmly believes that the petitioned waste poses a threat to human health and the environment based on the Agency's evaluation of waste composition data and ground-water monitoring data submitted to date. EPA also does not believe that additional data would change the conclusions reached today regarding inorganic constituents in LCAAP's waste. Furthermore, the Agency maintains that LCAAP has not provided a convincing demonstration that the petitioned waste is not hazardous. The Agency notes, however, that LCAAP, in the future, has the option to submit a new petition that specifically addresses the concerns raised in the proposed rule (*i.e.*, the petition must demonstrate conclusively that the petitioned waste could not have contributed to existing ground-water contamination at the site). If a new petition is submitted, the Agency would evaluate both new and existing data to determine whether the petitioned waste has posed, or may potentially pose, a threat to human health or the environment. At that time also, the Agency would determine whether the new data sets are sufficiently comprehensive and of sufficient quality to justify discounting older data sets.

d. *Use and Interpretation of Ground-Water Monitoring Data.* As explained in the proposed rule, the Agency's review of LCAAP's petition included an evaluation of ground-water monitoring information available for LCAAP's Solid Waste Landfill (of which the south landfill cell is a part), including information provided by EPA Region VII and information submitted by LCAAP. The Agency stated that although the monitoring system for the Solid Waste Landfill is inadequate for meeting the requirements of 40 CFR part 265, subpart F, ground-water monitoring data collected for wells located adjacent to the south landfill cell (Wells #2 and #5) are sufficient indication that the petitioned waste may have the potential to contaminate ground water at levels that exceed delisting health-based levels. Specifically, lead and antimony were detected at concentrations exceeding the delisting health-based levels in ground-water samples collected from Wells #2 and #5. The Agency also stated that results from the analysis of samples collected from a lysimeter installed beneath the south landfill cell also support a conclusion that the waste contained in the south landfill cell has adversely affected the environment and has the potential for causing ground-water contamination.

Both commenters responding to the proposed decision commented on the Agency's use and interpretation of ground-water monitoring information to support denial of LCAAP's petition. One commenter supported the Agency's proposed decision for the reasons set forth in the proposed rule, *i.e.*, the inadequacies in the ground-water monitoring system for the Solid Waste Landfill, inadequacies in the analysis of ground-water samples, and evidence of ground-water contamination originating from the south landfill cell. As stated previously, while the inadequacy of the monitoring system was not a specific basis for denial of LCAAP's petition, the opinions of the commenter are the same as those expressed by the Agency in the proposed rule, and as such, do not require response in today's notice. The other commenter believed that the

ground-water monitoring data on which the Agency based its decision are flawed and, therefore, are not adequate for the purpose of determining the impact of the petitioned waste on ground-water quality. The commenter further contended that no meaningful data are available regarding ground-water quality at the Solid Waste Landfill. The commenter's bases for these statements, and the Agency's response, are presented further in the sections that follow.

(1) *Well construction and placement.* The commenter believes that the monitoring wells for the Solid Waste Landfill, because of their construction and location, will not provide the accurate data necessary to evaluate potential ground-water contamination. The commenter stated that the data on which the Agency has based its evaluation were obtained from wells which were constructed improperly. Specifically, the well casings were slotted in the field using a hacksaw, and the well annular spaces were not packed with gravel or sand around the well intake. The commenter also contended that the placement of monitoring wells is flawed. The commenter stated that while the monitoring wells at the Solid Waste Landfill were all located immediately adjacent to the cells being monitored, Well #5 was actually located inside the boundary of the south landfill cell. The commenter contended that this well was not capable of producing any data concerning conditions outside the landfill cell, yet it is one of the principle exhibits in EPA's denial of LCAAP's petition.

The commenter also asserted that a Comprehensive Ground-water Monitoring Evaluation (CME) conducted at the LCAAP facility on September 14 thorugh 25, 1987 stated that the ground-water monitoring wells for the Solid Waste Landfill were incapable of yielding meaningful samples. The commenter believes that EPA Region VII's evaluation means that the wells could not provide useful results (either positive or negative). Furthermore, LCAAP's Ground-water Quality Assessment Plan, approved by EPA Region VII, called for the destruction of the ground-water monitoring wells used in the Agency's decision because they could not produce meaningful sample data. EPA Region VII required that LCAAP install a new monitoring system.

In its evaluation of ground-water monitoring data submitted in support of delisting petitions, the Agency may use ground-water monitoring data from non-compliant monitoring systems as a basis to deny a petition when the data indicate that the petitioned waste may have adversely impacted ground-water quality. (See 54 FR 41930, October 12, 1989, for additional clarification of the Agency's use of ground-water monitoring data in delisting decisions.) When contamination is detected, EPA believes that it is appropriate to assume that the petitioned waste may have contributed to the ground-water contamination (unless the petitioner can demonstrate otherwise) because the delisting process is intended for those wastes which clearly do not pose a threat to human health or the environment.

In LCAAP's case, LCAAP has submitted ground-water monitoring data from a non-compliant monitoring system. The Agency recognizes that the monitoring system deficiencies must be corrected through the installation of a new monitoring system, as required by EPA Region VII. However, the Agency asserts that the ground-water monitoring data reviewed during the evaluation of LCAAP's petition provide sufficient basis to conclude that the petitioned waste may have adversely impacted ground-water quality.

Specifically, the Agency maintains that there is a reasonable basis to believe that the wells installed to monitor the Solid Waste Landfill, despite their location and construction, may intercept ground-water flow from the petitioned unit. The Agency believes that data from the monitoring wells, in conjunction with available lysimeter data, provide an indication of the potential impact of the petitioned waste on ground water. In lieu of data from an adequate monitoring system, and a convincing demonstration that an alternate contaminant source exists, the Agency believes that (1) it is reasonable to assume that lead and antimony detected in ground-water samples from Wells #2 and #5 may reflect the impact of the petitioned waste on ground water, and (2) the ground-water monitoring data support the VHS model analysis which also determined that the waste is capable of leaching hazardous concentrations of lead and antimony into ground water. In light of the information presented in the proposal and discussed in today's notice, the Agency continues to believe that the petitioned waste cannot be ruled out as a potential source of ground-water contamination, and contends that the petitioned waste may pose a hazard to human health and the environment.

(2) *Data from Lysimeters.* The commenter maintains that the usefulness of lysimeters as sampling devices is open to debate under the best of circumstances, and that the samples collected from the lysimeters at the Solid Waste Landfill are extremely suspect. The commenter believes that data from the lysimeters, although submitted in support of the petition, should not be used in the evaluation of the petition.

The Agency believes that data obtained from lysimeters provide useful information regarding a waste's potential impact on ground-water and the environment. While EPA has not routinely requested such data in its evaluation of delisting petitions, it will not disregard data collected from lysimeters unless there is valid and appropriate reason to do so (*e.g.*, errors in sampling or analysis have occurred, hazardous constituents detected in lysimeter samples are demonstrated to originate from a source other than the petitioned waste). The commenter did not provide the Agency with adequate basis for concluding that the lysimeter samples are suspect. Therefore, the Agency continues to maintain that the lysimeter data presented by LCAAP support a conclusion that the waste contained in the south landfill cell may have adversely impacted the environment and has the potential for causing ground-water contamination.

(3) *Comprehensive Ground-Water Monitoring Evaluation (CME).* The commenter maintains that it was inappropriate and improper for the Agency to consider data and conclusions from the September 1987 CME in the evaluation of LCAAP's petition. The commenter contends that, while LCAAP has been orally briefed on some of the results from the CME, the data from the CME have not been released to LCAAP and that EPA Region VII has indicated that the CME was not acceptable for release to LCAAP or the public.

As stated in the proposal, the Agency reviewed ground-water monitoring information provided by EPA Region VII during the course of the evaluation of LCAAP's petition. This information included a "Letter of Warning," dated May 24, 1988, which was sent to Lieutenant Colonel David Brown of LCAAP by David Wagoner of EPA Region VII and contained results of the CME, and a set of tables from the CME containing a summary of historical ground-water monitoring data for the Solid Waste Landfill and for another waste management area which was the subject of a different petition submitted by LCAAP. (See the RCRA public docket for the proposed rule for copies of the letter of warning and ground-

water tables from the CME.) EPA Region VII would not release the CME to EPA Headquarters Variances Section during the review of LCAAP's petition because the CME was not final. Therefore, the Agency believes that the commenter's statements regarding the CME refer to the letter of warning and the tables of historical ground-water data obtained from Region VII.

The tables of historical ground-water data from the CME presented the results of ground-water monitoring at the Solid Waste Landfill from 1981 through 1987, and are typical of the type of ground-water monitoring information requested from state and EPA Regional authorities during the course of the review of a delisting petition. The Agency does not believe the commenter's concern regarding the public release of the data tables is justified because, contrary to the commenter's statements, the data tables were made available to the public, including LCAAP, for review during the comment period. Moreover, the only analytical data presented in the proposal to deny LCAAP's petition were tabulated from LCAAP analytical data reports obtained from Region VII and from information contained in LCAAP correspondence with the Variances Section, and as such, were available to LCAAP.

The Letter of Warning issued to LCAAP by EPA Region VII stated: "EPA has also determined, based on the results of the CME, that the ground-water detection well networks at the * * *, solid waste landfill, * * * are inadequate to meet the requirements of 40 CFR 265 subpart F." The letter also contained a summary of the well network deficiencies and sampling deficiencies identified in the CME.

In the course of its review of delisting petitions, the Agency requests the determination of state and EPA Regional offices regarding the compliance of a facility's ground-water monitoring program with the appropriate state or Federal regulations. In LCAAP's case, the 1988 Letter of Warning (and the Agency's own evaluation of LCAAP's ground-water monitoring system) provided the basis for the Agency's statement in the proposed denial that the ground-water monitoring system for the south landfill cell was not in compliance with 40 CFR part 265, subpart F. The commenter, who had access to the letter of warning, has not challenged or demonstrated as erroneous any of the conclusions of the CME contained in the letter. On the contrary, statements of the commenter presented previously in today's notice indicate that the commenter agrees that the monitoring system at the solid waste landfill is not adequate. Consequently, the Agency disagrees with the commenter's statements regarding the CME. The Agency does not believe that it used any information or conclusions contained in the CME that were not also available to LCAAP during the evaluation of LCAAP's petition.

(4) *New Ground-Water Monitoring System.* The commenter stated that LCAAP is collecting and evaluating data from a new ground-water monitoring system installed pursuant to a Ground-water Quality Assessment Plan which has been approved by EPA Region VII. The commenter believed that a final decision on the petition should be delayed until ground-water quality data from the wells installed under the Plan are available.

The Agency believes that the information presented in the proposed rule, and summarized today, provides sufficient reason for denying LCAAP's petition. The Agency does not intend to delay action on LCAAP's petition until the facility collects and submits additional ground-water monitoring data. As stated previously, LCAAP, like any petitioner, may submit a new petition to the Agency at any time in the future. However, the Agency does not intend to discount previously collected ground-water monitoring data without sufficient demonstration that the data do not represent the potential impact of the petitioned waste on ground-water quality.

3. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that LCAAP's petitioned wastewater treatment sludge should not be excluded from hazardous waste control. The Agency, therefore, is denying a final exclusion to the Lake City Army Ammunition Plant, located in Independence, Missouri, for its wastewater treatment sludge described in its petition as EPA Hazardous Waste No. K046 and contained in its south landfill cell. The effect of this rule is that this petitioned waste must continue to be handled as a hazardous waste in accordance with 40 CFR parts 260 through 268 and the permitting standards of 40 CFR part 270.

III. Effective Date

This rule is effective immediately. The Hazardous and Solid Waste Amendments of 1984 amended section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here because this rule does not change the existing requirements for persons generating hazardous wastes. This facility has been obligated to manage its waste as hazardous before and during the Agency's review of its petition. Because a six-month deadline is not necessary to achieve the purpose of section 3010, EPA believes that this denial should be effective immediately. These reasons also provide a basis for making this rule effective immediately under the Administrative Procedures Act, pursuant to 5 U.S.C. 553(d).

IV. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. The denial of this petition does not impose an economic burden on this facility because prior to submission and during the review of the petition, this facility should have handled its waste as hazardous. The denial of the petition means that the petitioner is to continue managing its waste as hazardous in the manner in which it has been doing, economically and otherwise. There is no additional economic impact, therefore, due to today's rule. This rule is not a major regulation, therefore, no Regulatory Impact Analysis is required.

V. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator or delegated representative may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment does not have an adverse economic impact on small entities. The facility included in this notice may be considered a small entity, however, this rule only affects one facility in one industrial segment. The overall impact, therefore, on small entities is small. Accordingly, I hereby certify that this regulation does not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

VI. Paperwork Reduction Act

Information collection and recordkeeping requirements associated with this final rule have been approved

by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511, 44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2050–0053.

VII. List of Subjects in 40 CFR Part 261

Hazardous materials, Waste treatment and disposal, Recycling.

Authority: Section 3001 RCRA, 42 U.S.C. 6921.

Dated: April 16, 1990.

Mary A. Gade,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 90–10561 Filed 5–4–90; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 790

[OPTS–42052H; FRL 3687–6]

RIN 2070–AB97

Testing Consent Agreements and Test Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule amends the procedural rule in 40 CFR part 790 governing manufacturers and processors of chemical substances and mixtures (chemicals) who perform testing under section 4 of the Toxic Substances Control Act (TSCA) by eliminating the requirement that certain manufacturers of chemicals subject to section 4 test rules file letters of intent to test or exemption applications unless no other manufacturer of the chemical submits a letter of intent to test. This rule also modifies the requirement to submit study plans at least 45 days prior to initiation of testing by eliminating the requirement unless it is specified in a particular test rule or testing consent order.

DATES: These regulations shall become effective on June 21, 1990. In accordance with 40 CFR 23.5, this rule shall be promulgated for purposes of judicial review at 1 p.m. eastern (daylight or standard as appropriate) time on May 21, 1990.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Division (TS–799), Office of Toxic Substances, Rm. E–543B, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD (202) 554–0551.

SUPPLEMENTARY INFORMATION: Section 4 of TSCA gives EPA authority to require manufacturers and processors of chemicals to conduct testing relevant to determining the risk to human health and the environment posed by such chemicals. EPA is amending its procedures implementing section 4 rules in response to an argument made by the Chemical Manufacturers Association (CMA) in a meeting to discuss a petition for changes to the Office of Solid Waste (OSW) test rule, published June 15, 1988 (53 FR 22300), about the procedural burden placed on manufacturers who manufacture chemicals in small quantities for research and development (R & D) purposes, and who are subject to section 4 test rules. This rule treats manufacturers of small quantities of chemical substances (small-quantity manufacturers) and manufacturers of chemical substances for purposes of research and development (R & D manufacturers) similar to processors by generally eliminating the requirement to file letters of intent to test or exemption applications. This rule also modifies the requirement to submit study plans to EPA 45 days prior to initiation of testing.

This rule will decrease the public reporting burden, by eliminating, under the circumstances described in this rule, the requirement for small-quantity and R & D manufacturers to submit letters of intent to test or to submit exemption applications.

I. Introduction

One of the issues raised by the CMA petition concerned the burden of section 4 requirements on small quantity R & D manufacturers. CMA argued that these manufacturers are unlikely to perform testing but are obligated, under EPA's current procedures, to monitor their activities and to submit exemption applications from the effective date of the rule to the end of the reimbursement period. The reimbursement period is defined by TSCA as beginning when the final report is submitted to EPA and continuing for at least 5 years. During the reimbursement period, test sponsors may use the exemption applications to seek proportional reimbursement for the costs of testing. In practice, the administrative costs of seeking reimbursement from small-quantity manufacturers would probably exceed the reimbursement. Therefore, CMA argued the requirement imposes an administrative burden without a corresponding practical purpose.

EPA agreed with CMA's argument, but decided that it is not specific to the OSW rule. Accordingly, instead of amending the procedures only for the OSW test rule, EPA has decided to amend the procedures generally to apply to all test rules. Therefore, this rule removes the requirement for certain small-quantity manufacturers and R & D manufacturers to submit letters of intent to test or exemption applications at the early stage of a test rule, while reserving the authority to require compliance later if necessary. Secondly, this rule removes the requirement for a 45–day waiting period between the submission of study plans and the initiation of testing.

II. Final Rule

A. Persons Subject to a Test Rule

Under EPA's procedural rules for section 4 of TSCA, after promulgation of a test rule applicable to manufacturers and processors of a specific chemical (or manufacturers only), manufacturers must either submit a letter of intent to test or an application for exemption from testing (40 CFR 790.45). Submission of these letters or exemption applications is required within 30 days of the effective date of the rule (if the chemical is manufactured by the person as of or within 30 days after the effective date of the rule), or by the date manufacture begins, if the person begins manufacture before the end of the reimbursement period. At present, small-quantity and R & D manufacturers (including importers) are subject to these requirements and typically file exemption applications. EPA grants an exemption upon this application if another manufacturer has notified EPA of its intent to perform the required testing. The exemption applications are used by the test sponsors to seek reimbursement from persons subject to the test rule. Test sponsors legally may seek reimbursement from all persons subject to test rules, including processors, whether or not they have been required to file exemption applications.

Because small-quantity or R & D manufacturing normally represents a small percentage of the overall production volume, test sponsors are not expected to expend the administrative resources to recover the small proportional amounts of the testing costs from these manufacturers. Therefore, filing of exemption applications by these manufacturers serves no practical purpose.

In addition, the present requirement to file exemption applications, as applied to manufacturers who may begin to produce a chemical subject to a test rule solely in small-quantities for the first time after the effective date of the test rule but before the end of the reimbursement period, presents a burden to these manufacturers. Administrative resources are expended

to determine if any chemicals currently subject to testing under section 4 are being manufactured in small-quantities. This may involve keeping track of a substantial number of chemicals.

Under EPA's procedural rules, when both manufacturers and processors are subject to a rule, EPA chooses to treat processors differently, therefore reducing the processors' administrative burdens. While manufacturers and processors both are subject to test rules, processors are not required to submit letters of intent to test or exemption applications unless no manufacturer submits a letter of intent to test (40 CFR 790.42) within the time period specified in the procedural rule. However, processors may be subject to a claim for reimbursement by a manufacturer who actually performs the test (40 CFR 791.2). Processors are still subject to export notification requirements as specified in TSCA section 12(b).

This rule amends the procedural rule governing test rules and consent agreements under section 4 of TSCA by treating certain small-quantity and R & D manufacturers similar to processors and will correspondingly alleviate the reporting burden on these persons. Although EPA believes that small-quantity and R & D manufacturers are properly subject to testing and reimbursement requirements under section 4, this rule eliminates the requirement to file letters of intent to test or exemption applications unless no other manufacturer of a chemical substance subject to a section 4 test rule submits a letter of intent to test. As is the case for processors, the small-quantity and R & D manufacturers would still be subject to test rules (and export notification requirements as specified in TSCA section 12(b)), and would not be exempt from reimbursement claims. Thus, this rule would not change the legal rights and obligations of persons subject to section 4 test rules, but would only eliminate some of the paperwork burden associated with compliance.

This change applies to all section 4 test rules, including test rules in effect at the time of promulgation of this rule. Thus, small-quantity manufacturers and R & D manufacturers who are subject to any section 4 test rule at the time of publication of this final rule change would not have to continue to monitor chemicals they manufacture in small-quantities to determine compliance with section 4 rules.

EPA is defining small-quantity manufacturers as those persons who manufacture less than 500 kg (1,100 pounds) per year of a chemical. EPA is defining R & D manufacturers as those who manufacture a chemical in small quantities for research and development (meaning quantities that are not greater than those necessary for purposes of scientific experimentation or chemical analysis or chemical research on, or analysis of, such chemical or another chemical including such research or analysis for development of a product). This definition is consistent with that under 40 CFR 720.3(cc). These manufacturers are subject to the requirement to conduct testing under a test rule during the period from the effective date of the test rule to the end of the reimbursement period, but will only be required to submit letters of intent to test or exemption applications if no other manufacturer of the chemical submits a letter of intent to test. If no manufacturer submits a letter of intent to test, EPA will notify the R & D and the small-quantity manufacturers (and processors as applicable), by **Federal Register** notice or certified mail, as set forth in 40 CFR 790.48, that they are subject to the requirement to submit letters of intent to test or exemption applications.

EPA reserves the right to differ from the general procedure in this rule by proposing in a specific section 4 test rule to require R & D manufacturers and/or small-quantity manufacturers to submit exemption applications. EPA may do this in cases where it expects that such manufacturers are likely to be sought by test sponsors to pay costs of the testing, or in the case of R & D manufacturers only, where the EPA is proposing testing primarily to assess the risks associated with R & D manufacture of the chemical.

B. Submission of Study Plans

EPA is modifying its requirement in 40 CFR 790.40 that study plans be submitted 45 days prior to initiation of each test, by eliminating the requirement unless specified in a particular test rule or consent order. As stated in the **Federal Register** of May 17, 1985 (50 FR 20652), under single-phase rulemaking, EPA no longer approves protocols contained within study plans, but may use them to monitor the testing program and schedule audits. EPA is confident that in most cases, submitting study plans less than 45 days prior to initiation of the test would give EPA sufficient opportunity to arrange for laboratory inspections and data audits. Thus, unless necessary for a particular rule or consent agreement, e.g., to examine a novel protocol, EPA will no longer specify how many days prior to initiation of testing a study plan must be submitted.

III. Response to Public Comments

EPA received written comments on the proposed rule from the Dow Chemical Company, Kodak, 3M, Monsanto, Rhone-Poulenc, the Synthetic Organic Chemical Manufacturers Association (SOCMA), and CMA. These comments are discussed in Unit III.A. through F of this preamble.

A. Small Quantities Procedural Exemption

Several commentors supported EPA's proposal to exempt manufacturers of chemicals for non-research and development purposes to 500 kg per year. Some commentors argued that EPA should not establish a small quantity production limitation for R & D chemicals, because R & D status ensures that the chemical will be produced in small quantities. Further, the appropriate "small quantity" varies, depending on the type of chemical involved and its prospective uses.

Some commentors endorsed the 500 kg/year cutoff while others suggested the cutoff be raised to 1000 kg/year. Some indicated that an average or an aggregate production figure over the reimbursement period would be best, while others supported annual production figures. One commentor suggested that for test rules on substances in articles, the figure be based on 1 percent of the total amount of the article, rather than an absolute volume of production. Another commentor suggested that the cutoff be facility-specific to reduce recordkeeping burdens.

EPA agrees that the best way to alleviate the regulatory burden on R & D manufacturers is to exclude all R & D manufacturers from the procedural requirement of submitting letters of intent to test and exemption applications. Therefore, this rule eliminates the recordkeeping burden associated with determining the production volume of an R & D chemical. In the final rule, however, EPA is maintaining a small quantity exemption for non-R & D manufacturers at the 500 kg/year limit. In part, EPA is maintaining the 500 kg/year limit to be consistent with the Preliminary Assessment Information Rule (PAIR). EPA is basing the limit on annual production because, as one of the commentors asserted, production statistics are usually kept on an annual basis, and EPA wishes to use one standard for all companies. EPA has chosen not to accept the suggestion that annual production be facility-specific for non-R & D small quantity producers (R &

D manufacturers no longer have a limit) because to do so could result in an unequal effect between non-R & D manufacturers.

B. General Exemption From Test Rules for R & D

Some commentors suggested that chemicals produced solely for R & D should be excluded altogether from section 4 rules. Thus, rather than placing R & D manufacturers in a "second tier", they would not be legally subject unless specified in a particular test rule. CMA argued that exposure to humans or the environment to R & D chemicals is limited, and R & D chemicals are not commercially viable. Thus, EPA would not be warranted in issuing a section 4 test rule for R & D chemicals. Kodak commented that R & D chemicals should be exempt because they are produced in limited quantities, are not generating economic values from sales, and are essential to innovation.

EPA does not believe that it should grant a total exemption to R & D manufacturers. Section 4 of TSCA gives EPA authority to require testing of chemicals manufactured for R & D. Congress did not exempt R & D manufacturers from being subject to section 4, as in the case of sections 5 or 8 of TSCA. In this rule, EPA has lifted the procedural burden imposed on R & D manufacturers by test rules, recognizing that test sponsors would rarely, if ever, seek reimbursement from R & D manufacturers. By maintaining legal authority over R & D manufacturers, however, EPA has reserved the right of a test sponsor to seek reimbursement from all persons legally subject to a test rule.

Also, EPA disagrees with CMA's contention that no chemicals produced for R & D are commercially viable and should therefore not be subject to section 4 test rules. EPA contends that there may be instances where a manufacturer makes a chemical for a number of entities who will be using the chemical for R & D purposes. Further, EPA anticipates that there may be a future test rule to examine the risks associated with the production of a chemical for R & D purposes. Therefore, EPA reserves the right to propose, in a specific test rule, that the procedural rule exempting R & D manufacturers from submitting letters of intent to test or exemption applications not apply.

C. Non-Isolated Intermediates, Waste By-Products, Impurities

SOCMA commented that EPA should exclude from section 4 all manufacturing and processing of non-isolated intermediates, waste by-products, and impurities. This issue is not within the scope of this rulemaking.

D. Processors

Dow suggested that EPA create a third tier for small quantity processors that would apply only if processors will be subject to the rule. Processor-only test rules have never been issued. Therefore, rather than further complicating the procedural rule, EPA would consider this comment when it is developing any proposed test rule that would require only processors to test.

E. Import

Dow requested that the codified portion of the rule clarify that manufacture means import. This is unnecessary because TSCA section 3 clearly defines "manufacture" as production or import.

F. Study Plan Modification

Several commentors approved of the proposal which is promulgated in the rule. One commentor asked for additional changes to the study plan provisions that are outside the scope of this rulemaking.

G. Miscellaneous Issues

Several commentors requested exemption from import and export provisions of sections 12 and 13 of TSCA. Another commentor suggested that the quantity limit should be raised to 1000 kg and that this should also apply to the Comprehensive Assessment Information Rule (CAIR) and PAIR rules. These issues are outside the scope of this rulemaking.

IV. Rulemaking Record

EPA has established a record for this rulemaking proceeding [docket number OPTS–42052H]. This record contains the basic information considered by EPA in developing this proposal and appropriate **Federal Register** notices.

This record includes the following information:

A. Support Documentation

(1) **Federal Register** notices pertaining to this rule consisting of:

(a) Notice of EPA's proposed procedural rule. (54 FR 21237, May 17, 1989).

(b) Notice of final rulemaking on data reimbursement (48 FR 31786, July 11, 1983).

(c) Notice of interim final rule on single-phase test rule development and exemption procedures (50 FR 20652, May 17, 1985).

(2) Support documents consisting of the economic impact analysis of the procedural rule.

(3) Communications consisting of:

(a) Written public comments.

(b) Summaries of phone conversations.

(c) Minutes of August 9, 1988, meeting between EPA and CMA.

(4) Reports - published and unpublished factual materials.

B. References

(1) Chemical Manufacturers Association letter and Petition for an Administrative Stay and Modification of the Final Toxic Substances Control Act Section 4 Test Rules on Solid Waste Chemicals (53 FR 22300, June 15, 1988) (July 29, 1988).

(2) Notice of final rulemaking on data reimbursement (48 FR 31786, July 11, 1983).

(3) Notice of interim final rule on single-phase test rule development and exemption procedures (50 FR 20652, May 17, 1985).

(4) Minutes of August 9, 1988, meeting between the EPA and the Chemical Manufacturers Association to discuss a petition for changes to the Office of Solid Waste test rule (53 FR 22300, June 15, 1988).

V. Other Regulatory Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. EPA has determined that this procedural rule change is not major because it does not meet any of the criteria set forth in section 1(b) of the Order; i.e., it will not have an annual effect on the economy of at least $100 million, will not cause a major increase in prices, and will not have significant adverse effect on competition or the ability of U.S. enterprises to compete with foreign enterprises.

This rule was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any written comments from OMB to EPA, and any EPA response to those comments are included in the rulemaking record.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (15 U.S.C. 601 et seq., Pub. L. 96–354, September 19, 1980), EPA is certifying that this procedural rule will not have a significant impact on a substantial number of small businesses because: (1) They already are not likely to perform testing themselves, or to participate in the organization of the testing effort; (2) they will experience only very minor costs, and this change would make their participation even more unlikely; (3) this change would reduce the number of small businesses that will experience any costs in securing exemption from testing requirements; and (4) small

businesses are unlikely to be affected by reimbursement requirements.

C. Paperwork Reduction Act

OMB has approved the information collection requirements contained in this final rule under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq., and has assigned OMB control number 2070–0033. This change in the procedural rule for implementation of section 4 of TSCA will reduce the public reporting burden by no longer automatically requiring small-quantity and R & D manufacturers of chemicals to submit applications for exemption from testing.

List of Subjects in 40 CFR Part 790

Chemicals, Environmental protection, Hazardous substances, Laboratories, Reporting and recordkeeping requirements, Testing.

Dated: April 30, 1990.

Linda J. Fisher,

Assistant Administrator for Pesticides and Toxic Substances.

Therefore, 40 CFR, chapter I, subchapter R, is amended as follows:

PART 790—[AMENDED]

1. The authority citation for part 790 continues to read as follows:

Authority: 15 U.S.C. 2603.

2. In § 790.42, by adding paragraphs (a)(4) and (a)(5) and (a)(6) to read as follows:

§ 790.42 Persons subject to a test rule.

(a) * * *

(4) While legally subject to the test rule in circumstances described in paragraph (a)(1) of this section, persons who manufacture less than 500 kg (1,100 lb) of the chemical annually during the period from the effective date of the test rule to the end of the reimbursement period, must comply with the requirements of the test rule only if such manufacturers are directed to do so in a subsequent notice as set forth in § 790.48, or if directed to do so in a particular test rule.

(5) While legally subject to the test rule in circumstances described in paragraph (a)(1) of this section, persons who manufacture small quantities of the chemical solely for research and development (meaning quantities that are not greater than those necessary for purposes of scientific experimentation or analysis or chemical research on, or analysis of, such chemical or another chemical, including such research or analysis for development of a product) from the effective date of the test rule to the end of the reimbursement period, must comply with the requirements of the test rule only if such manufacturers are directed to do so in subsequent notice set forth in § 790.48, or if directed to do so in a particular test rule.

(6) If testing is being required to allow evaluation of risks associated primarily with manufacture of a chemical for research and development (R & D) purposes, manufacturers of the chemical for R & D will be subject and must comply with the requirements of the test rule.

* * * * *

3. In § 790.48, by revising paragraphs (a)(2) and (b)(3) to read as follows:

§ 790.48 Procedure if no one submits a letter of intent to conduct testing.

(a) * * *

(2) If no manufacturer subject to the test rule has notified EPA of its intent to conduct one or more of the required tests within 30 days after the effective date of the test rule described in § 790.40, EPA will notify all manufacturers, including those described in § 790.42(a)(4) and (a)(5), by certified mail or by publishing a notice of this fact in the **Federal Register** specifying the tests for which no letter of intent has been submitted and will give such manufacturers an opportunity to take corrective action.

* * * * *

(b) * * *

(3) No later than 30 days after the date of publication of the **Federal Register** notice described in paragraph (b)(2) of this section, each person described in § 790.40(a)(4) and (5) and each person processing the subject chemical as of the effective date of the test rule described in § 790.40 or by 30 days after the date of publication of the **Federal Register** notice described in paragraph (b)(2) of this section must, for each test specified in the **Federal Register** notice, either notify EPA by letter of his or her intent to conduct testing or submit to EPA an application for an exemption from testing requirements for the test.

* * * * *

4. In § 790.50, by revising paragraph (a)(1) to read as follows:

§ 790.50 Submission of study plans.

(a) * * *

(1) Persons who notify EPA of their intent to conduct tests in compliance with the requirements of a single phase test rule as described in § 790.40(b)(1) must submit study plans for those tests prior to the initiation of each of these tests, unless directed by a particular test rule or consent agreement to submit study plans at a specific time.

* * * * *

[FR Doc. 90–10552 Filed 5–4–90; 8:45 am]

BILLING CODE 6560–50–D

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6870]

List of Communities Eligible for the Sale of Flood Insurance; Ohio

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities were required to adopt floodplain management measures compliant with the NFIP revised regulations that became effective on October 1, 1986. If the communities did not do so by the specified date, they would be suspended from participation in the NFIP. The communities are now in compliance. This rule withdraws the suspension. The communities' continued participation in the program authorizes the sale of flood insurance.

EFFECTIVE DATE: As shown in fifth column.

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

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 416, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The 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 measures aimed at protecting lives and new construction from future flooding.

In addition, the Director of the Federal Emergency Management Agency has identified the Special Flood Hazard Areas in these communities by publishing a Flood Insurance Rate Map. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of

1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assisatnce for acquisition or construction of buildings in the Special Flood Hazard Area shown on the map.

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

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance."

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on these participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance and floodplains.

PART 64—[AMENDED]

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

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

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

In each entry, the suspension for each listed community has been withdrawn. The entry reads as follows:

§ 64.6 List of eligible communities.

State	Community name	County	Community No.	Effective date	
Regular Program Communities:					
Ohio	Independence, City of	Cuyahoga	390111	April 2, 1990	Suspension Withdrawn.
Do.	Morrow, Village of	Warren	390561	do.	
Do.	South Russell, Village of	Geauga	390740	do.	
Do.	Antwerp, City of	Paulding	390435	April 16, 1990	Suspension Withdrawn.
Do.	Athens, City of	Athens	390016	do.	
Do.	Fort Jennings, Village of	Putnum	390468	do.	
Do.	Jamestown, Village of	Greene	390881	do.	
Do.	North Hampton, Village of	Clark	390679	do.	
Do.	Norton, City of	Summit	390529	do.	
Do.	Portsmouth, City of	Scioto	390498	do.	
Do.	Stratton, Village of	Jefferson	390303	do.	

Dated: April 30, 1990.

Harold T. Duryee,

Administrator, Federal Insurance Administration.

[FR Doc. 90–10543 Filed 5–4–90; 8:45 am]

BILLING CODE 6718–03–M

44 CFR Part 64

[Docket No. FEMA 6873]

List of Communities Eligible for the Sale of Flood Insurance; Oklahoma et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

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

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

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at:

Post Office Box 457, Lanham, Maryland 20706, Phone: (800) 638–7418.

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, SW., 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 measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

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

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

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance."

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements

or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance and floodplains.

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.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 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
New Eligibles—Emergency Program			
Oklahoma:			
Calumet, Town of, Canadian County	400268	April 16, 1990	4-9-76
Vici, Town of, Dewey County	400448	Do. Emerg.	11-5-76
Texas:			
Northlake, City of, Denton County	480782	Do. Emerg.	
Sunrise Beach Village, City of, Llano County	481531	Do. Emerg.	6-19-79
Vermont: Hubbardton, Town of, Rutland County	500313	Do. Emerg.	12-13-74
Alabama:			
Clayton, Town of, Barbour County	010377	April 11, 1990	9-29-78
Brundidge, City of, Pike County	010347	April 13, 1990	10-22-76
Geneva County, unincorporated areas	010258	April 17, 1990	2-20-76
New Eligibles—Regular Program			
Texas: Nome, City of, Jefferson County	481297	April 16, 1990	2-2-83
Florida: Brooker, Town of, Bradford County	120016	Do. Reg.	11-15-89
Reinstatements			
West Virginia: Oak Hill, City of, Fayette County	540031	October 24, 1974, Emerg.; January 18, 1980, Reg.; December 16, 1988, Susp.; April 6, 1990, Rein.	1-18-80
Montana: Ennis, Town of, Madison County	300044	July 16, 1976, Emerg.; June 1, 1986, Reg.; July 17, 1989, Susp.; April 4, 1990, Rein.	6-1-86
New York: Tubber Lake, Village of, Franklin County	360274	May 29, 1975, Emerg.; March 1, 1987, Reg.; August 19, 1987, Susp.; April 12, 1990, Rein.	3-1-87
Oklahoma: Wister, Town of, LeFlore County	400095	August 6, 1971, Emerg.; April 14, 1976, Reg.; Janaury 18, 1989, Susp.; April 12, 1990, Rein.	4-1-80
Pennsylvania: Eldred, Township of, Schuylkill County	422005	August 5, 1975, Emerg.; September 1, 1986, Reg.; September 1, 1986, Susp.; April 16, 1990, Rein.	9-1-86
Mississippi: Lee County, unincorporated areas	280227	February 7, 1978, Emerg.; March 5, 1990, Reg.; March 5, 1990, Susp.; April 16, 1990, Rein.	3-5-90
Florida: Westville, Town of, Holmes County	120118	November 14, 1975, Emerg.; June 1, 1987, Reg.; June 1, 1987, Susp.; April 12, 1990, Rein.	6-1-87
Colorado: Rio Blanco County, unincorporated areas	080288	November 23, 1984, Emerg.; February 16, 1990, Reg.; February 16, 1990, Susp.; April 20, 1990, Rein.	2-16-90
Florida: Pomona Park, Town of, Putnam County	120418	July 9, 1976, Emerg.; December 4, 1979, Reg.; March 4, 1988, Susp.; April 20, 1990, Rein.	12-4-79
Pennsylvania:			
Kidder, Township of, Carbon County	421453	August 29, 1975, Emerg.; February 2, 1989, Reg.; February 2, 1989, Susp.; April 20, 1990, Rein.	2-2-89
West Penn, Township of, Schuylkill County	422029	April 3, 1979, Emerg.; February 2, 1990, Reg.; February 2, 1990, Susp.; April 23, 1990, Rein.	2-2-90
Ohio: Rockford, Village of, Mercer County	390397	July 21, 1975, Emerg.; February 1, 1986, Reg.; April 2, 1990, Susp.; April 23, 1990, Rein.	2-1-86
Wisconsin: Gays Mills, Village of, Crawford County	550071	April 12, 1973, Emerg.; March 5, 1990, Reg.; March 5, 1990, Susp.; April 16, 1990, Rein.	3-5-90
Georgia: Wayne County, unincorporated areas	130417	December 31, 1975, Emerg.; September 30, 1988, Reg.; February 2, 1990, Susp.; April 24, 1990, Rein.	9-30-88
Region III			
Pennsylvania:			
East Taylor, Township of, Cambria County	421441	April 2, 1990; Suspension Withdrawn	4-2-90
Franklin, Borough of, Cambria County	422593	....do	4-2-90
Upper Yoder, Township of, Cambria County	422257	....do	4-2-90
West Wheatfield, Township of, Indiana County	421724	....do	4-2-90
Region IV			
Mississippi:			
Forrest County, unincorporated areas	280052	....do	4-2-90
Lamar County, unincorporated areas	280304	....do	4-2-90
Region X			
Alaska: Aniak, City of, Bethel Borough	020033	....do	4-2-90
Region III			
Pennsylvania: Armstrong, Township of, Indiana County	4212708	April 16, 1990; Suspension Withdrawn	4-16-90
Region IV			
North Carolina: Harnett County, unincorporated areas	370328	....do	4-16-90
Region V			
Illinois:			
Fairbury, City of, Livingston County	170424	....do	4-16-90
Herrin, City of, Williamson County	170717	....do	4-16-90

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date
Region VI			
Arkansas:			
Baxter County, unincorporated areas	050010	do	4-16-90
Cotter, City of, Baxter County	050011	do	4-16-90
Oklahoma: Edmond, City of, Oklahoma County	400252	do	4-16-90
Texas: Booker, City of, Lipscomb County	480444	do	4-16-90
Region VII			
Kansas: Wellington, City of, Sumner County	200349	do	4-16-90
Region VIII			
South Dakota: Deadwood, City of, Lawrence County	460045	do	4-16-90
Region IX			
Nevada: Sparks, City of, Washoe County	320021	do	4-16-90
Region X			
Alaska: Ketchikan, City of, Ketchikan Gateway Borough	020003	do	4-16-90

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

Issued: April 30, 1990.

Harold T. Duryee,

Administrator, Federal Insurance Administration.

[FR Doc. 90-10544 Filed 5-4-90; 8:45 am]

BILLING CODE 6718-21-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89-372; RM-6907]

Radio Broadcasting Services; Clarksdale, MI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots FM Channel 243C3 to Clarksdale, Mississippi, and modifies the construction permit for Channel 243A, to specify operation on Channel 243C3. This action is taken in response to a petition filed by WKDJ Radio, permittee of Channel 243A. The coordinates for Channel 243C3 are 34-06-00 and 90-25-00.

EFFECTIVE DATE: June 14, 1990.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-372, adopted April 16, 1990, and released May 1, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments for Mississippi, is amended for Clarksdale, Mississippi, by removing Channel 243A and adding Channel 243C3.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-10496 Filed 5-4-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-542; RM-6695]

Radio Broadcasting Services; Monroeville, AL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 257C2 for Channel 257A at Monroeville, Alabama, and modifies the Class A license of Monroe Broadcasting Company for Station WMFC-FM, as requested, to specify operation on the higher powered channel, thereby providing that community and the surrounding area with expanded radio service. See 54 FR 50517, December 7, 1989. Coordinates for Channel 257C2 at Monroeville are 31-30-51 and 87-17-55. With this action, the proceeding is terminated.

EFFECTIVE DATE: June 14, 1990.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-542, adopted April 13, 1990, and released May 1, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

47 CFR PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments for Alabama, is amended for Monroeville, by removing Channel 257A and adding Channel 257C2.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-10497 Filed 5-4-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Parts 73 and 76

[FCC 90-178]

Broadcast and Cable Services; Broadcasting or Cablecasting of Lotteries and Lottery Information

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission updates §§ 73.1211 and 76.213 of its rules concerning exceptions to the restrictions on broadcasting and cablecasting lotteries and lottery information. The action is taken to make these rules correspond with recent revisions to the law enacted by the Charity Games Advertising Clarification Act of 1988 (Act).

EFFECTIVE DATE: May 7, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Ben Halprin, Mass Media Bureau, (202) 632-3860.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Order*, FCC 90-178, adopted April 30, 1990, and released May 1, 1990.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Docket Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Synopsis of Order

1. This decision amends 47 CFR 73.1211 and 76.213 to correspond with changes in the law regarding the broadcasting of lotteries or lottery information generated by the Act. The Act becomes effective on May 7, 1990, and expands the exceptions to the general prohibition against the broadcasting of lotteries and information or advertisements concerning lotteries. 18 U.S.C. Sections 1304, 1307. The Act provides that broadcasters will be permitted to advertise lotteries authorized on not otherwise prohibited by the state in which they are conducted if they are conducted by: (a) Not-for-profit organizations; (b) governmental organizations; or (c) commercial entities, provided the lottery is clearly occasional and ancillary to the primary business or the commercial organization. In contrast, broadcasts of advertisements of state-conducted lotteries will only be permitted in the state conducting the lottery and in other states that have such lotteries.

2. Currently, § 73.1211 of the Commission's Rules reflects the restrictions of section 1304 and the pre-amendment exceptions of section 1307. It is amended to correspond with the new law. Section 76.213 contains similar requirements regarding the cablecast of lottery information, and is revised to allow the cablecasting of such information to the same extent as authorized for broadcast.

3. We emphasize that until May 7, 1990, stations are bound by the stricter exceptions currently contained in 47 CFR 73.1211 and 76.213. We also stress that when the amendments contained in the Act do become effective, broadcast and cablecast advertising for gambling casinos with continue to be unlawful.

4. Because these rules merely codify the statute, we find for good cause that compliance with the notice and comment and effective date provisions of the Administrative Procedure Act (APA) is unnecessary. 5 U.S.C. sections 553(b)(B) and 553(d)(3). In addition, we are authorized to make this rule effective less than 30 days after publication under the APA because it is a substantive rule which relieves restrictions. 5 U.S.C. section 553(d)(1).

Papework Reduction Act Statement

5. The rules adopted herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements. These rules will not increase or decrease burden hours imposed on the public.

Ordering Clauses

6. Accordingly, *It is ordered* that pursuant to the authority contained in Sections 4 and 303 of the Communications Act of 1934, as amended, Parts 73 and 76 of the Commission Rules and Regulations ARE AMENDED as set forth below. *It is further ordered* That the amendments to the Commission's Rules and Regulations shall become effective on May 7, 1990.

List of Subjects

47 CFR Part 73

Radio broadcasting.

47 CFR Part 76

Cable television.

Amendatory Text

Title 47 CFR parts 73 and 76 are amended as follows:

Part 73—[Amended]

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

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

8. Section 73.1211 is amended by revising paragraphs (c)(1) and (d) and adding new paragraph (c)(4), to read as follows:

§ 73.1211 Broadcast of lottery information.

* * * * *

(c) * * *

(1) A lottery conducted by a State acting under the authority of State law which is broadcast by a radio or television station licensed to a location in that State or any other State which conducts such a lottery. (18 U.S.C. 1307(a); 102 Stat. 3205).

* * * * *

(4) A lottery, gift enterprise or similar scheme, other than one described in paragraph (c)(1) of this section, that is authorized or not otherwise prohibited by the State in which it is conducted and which is:

(i) Conducted by a not-for-profit organization or a governmental organization (18 U.S.C. 1307(a); 102 Stat. 3205); or

(ii) Conducted as a promotional activity by a commercial organization and is clearly occasional and ancillary to the primary business of that organization. (18 U.S.C. 1307(a); 102 Stat. 3205).

(d)(1) For purposes of paragraph (c) of this section, "lottery" means the pooling of proceeds derived from the sale of tickets or chances and allotting those proceeds or parts thereof by chance to one or more chance takers or ticket purchasers. It does not include the placing or accepting of bets or wagers on sporting events or contests.

(2) For purposes of paragraph (c)(4)(i) of this section, the term "not-for-profit organization" means any organization that would qualify as tax exempt under section 501 of the Internal Revenue Code of 1986.

PART 76—[AMENDED]

9. The authority citation for part 76 continues to read as follows:

Authority: 47 U.S.C. 152, 153, 154, 301, 303, 307, 308, 309.

10. Section 76.213 is amended by revising paragraph (c) and adding new paragraph (e) to read as follows:

§ 76.213 Lotteries.

* * * * *

(c) The provisions of paragraphs (a) and (b) of this section shall not apply to

advertisements or lists of prizes or information concerning:

(1) A lottery conducted by a State acting under authority of State law which is transmitted:

(i) By a cable system located in that State;

(ii) By a cable system located in another State which conducts such a lottery; or

(iii) By a cable system located in another State which is integrated with a cable system described in paragraphs (c)(1)(i) or (c)(1)(ii) of this section, if termination of the receipt of such transmission by the cable systems in such other State would be technically infeasible.

(2) Any gaming conducted by an Indian Tribe pursuant to the Indian Gaming Regulatory Act. (25 U.S.C. 2701 *et seq.*).

(3) A lottery, gift enterprise or similar scheme, other than one described in paragraph (c)(1) of this section, that is authorized or not otherwise prohibited by the State in which it is conducted and which is:

(i) Conducted by a not-for-profit organization or a governmental organization; or

(ii) Conducted as a promotional activity by a commercial organization and is clearly occasional and ancillary to the primary business of that organization.

* * * * *

(e) For purposes of paragraph (c)(3)(i) of this section, the term "not-for-profit organization" means any organization that would qualify as tax exempt under section 501 of the Internal Revenue Code of 1986.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90-10694 Filed 5-3-90; 3:52 pm]

BILLING CODE 6712-01-M

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47 CFR Part 94

Point-to-Multipoint Use of the 2.5, 10.6, and 18 GHz Bands by Private Operational Fixed Microwave Licensees; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule, published on March 15, 1990, concerning point-to-multipoint operations in the Private Operational Fixed Microwave Service.

EFFECTIVE DATE: April 14, 1990.

FOR FURTHER INFORMATION CONTACT: Michael A. Lewis, (202) 632-6940.

PART 94—[AMENDED]

SUPPLEMENTARY INFORMATION: In FR Doc. 88-191, published in the March 15, 1990, **Federal Register** on page 9727, the following corrections are made in § 94.88:

§ 94.88 Special provision for low power systems in the 17,700-19,700 MHz band.

Notwithstanding other provisions in this Rule Part, licensees of the five point-to-multipoint channel pairs listed in § 94.65(j)(8) may operate multiple low power transmitting devices within a defined service area. The service area will be a 28 kilometer omnidirectional radius originating from specified center reference coordinates. The specified center coordinates must be no closer than 56 kilometers from any co-channel nodal station or the specified center coordinates of another co-channel system. Applicants/licensees do not need to specify the location of each individual transmitting device operating within their defined service areas. Such operations are subject to the following requirements on the low power transmitting devices:

(a) Power must not exceed one watt EIRP and 100 milliwatts transmitter output power.

(b) A frequency tolerance of .001% must be maintained.

(c) The mean power of emissions shall be attenuated in accordance with the following schedule:

(i) in any 4 kHz band, the center frequency of which is removed from the center frequency of the assigned channel by more than 50 percent of the channel bandwidth and is within the bands 18,820-18,870 MHz or 19,160-19,210 MHz:

$A = 35 + .003(F - 0.5B)$ Db

or,

80 dB (whichever is the lesser attenuation).

Where

A = Attenuation (in decibles) below output power level contained within the channel for a given polarization.

B = Bandwidth of channel in kHz.

F = Absolute value of the difference between the center frequency of the 4 kHz band measured at the center frequency of the channel in kHz.

(ii) In any 4 kHz band the center frequency of which is outside the bands 18,820-18,870 MHz or 19,160-19,210 MHz:

At least $43 + 10 \log_{10}$ (mean output power in Watts) decibles.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90-10494 Filed 5-4-90; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 85-08; Notice 5]

RIN 2127-AC86

Federal Motor Vehicle Safety Standards; Occupant Crash Protection

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

ACTION: Final rule.

SUMMARY: The requirements for safety belt systems in trucks, buses and multipurpose passenger vehicles with a gross vehicle weight rating of more than 10,000 pounds manufactured on or after September 1, 1990 include special provisions to make those safety belt systems more comfortable and convenient to use. The final rule that originally established these requirements set forth special performance requirements for belt systems equipped with automatic locking retractors (ALRs). For such belt systems, that rule's special performance requirements focused exclusively on the working of the retractor mechanism itself as the means of ensuring comfort for users of these belt systems.

Following receipt of a petition for reconsideration and the issuance of a notice of proposed rulemaking, the agency is issuing this final rule which expands the special performance requirements for belt systems equipped with ALRs to encompass the working of the entire safety belt system instead of focusing on the retractor mechanism alone. This approach achieves the agency's goal of ensuring comfort for users of belt systems equipped with ALRs, without imposing unnecessary restrictions on innovative means of ensuring comfort that do not depend upon the workings of the retractor mechanism alone.

DATES: The changes made in this rule are effective September 1, 1990. These requirements will apply to all trucks, buses, and multipurpose passenger vehicles with a gross vehicle weight rating of more than 10,000 pounds manufactured on or after that date.

Any petitions for reconsideration of this rule must be received by NHTSA no later than June 6, 1990.

ADDRESSES: Any petitions for reconsideration should refer to Docket No. 85–08; Notice 5 and be submitted to: Administrator, NHTSA, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Daniel S. Cohen, Chief, Occupant Protection Group, NRM–12, Room 5320, NHTSA, 400 Seventh Street, SW., Washington, DC 20590 (202–366–4916).

SUPPLEMENTARY INFORMATION: Since January 1, 1972, Federal Motor Vehicle Safety Standard No. 208, *Occupant Crash Protection* (49 CFR 571.208) has required vehicle manufacturers to install safety belt systems in heavy vehicles (i.e., trucks, buses, and multipurpose passenger vehicles [MPVs] with a gross vehicle weight rating of more than 10,000 pounds). The safety belts required in those vehicles have had to meet all of the strength requirements set for belt systems in passenger cars and light trucks, buses, and MPVs (those with a gross vehicle weight rating of 10,000 pounds or less). However, the safety belts required in heavy vehicles have not had to meet several requirements for lighter vehicle safety belt systems that make the safety belts more comfortable to wear and easier to use.

The agency adopted several changes to the requirements for belt systems in heavy vehicles to make such belt systems more comfortable to wear and easier to use in a final rule that was published on July 6, 1988 (53 FR 25337). With respect to the type of retractor required to be installed on heavy vehicle belt systems, this rule required that such belt systems be equipped with either an emergency locking retractor (ELR) or an ALR with anti-cinch capability. For the purposes of that rule, the determination of whether a heavy vehicle safety belt system with an ALR had this anti-cinch capability was made by examining the working of the retractor mechanism alone. In the case of a safety belt assembly equipped with an ALR and installed in a heavy vehicle to comply with this requirement, the retractor could not retract webbing to the next locking position until at least ¾ of an inch of webbing had moved into the retractor.

NHTSA received three petitions for reconsideration of this rule. The only one of those petitions that is relevant to this rule is the one that was filed by Indiana Mills & Manufacturing, Inc. (IMMI). IMMI's petition asked NHTSA to amend its July 6, 1988 rule to permit safety belt systems that are equipped with an ALR and installed in heavy vehicles to comply with the ¾ inch minimum webbing travel requirement by means other than the working of the retractor itself. According to IMMI, a minimum webbing travel requirement that considered the performance of the entire belt system in meeting the goal of preventing "cinch down," instead of focusing on the performance of the retractor alone, would permit the development of more innovative means of overcoming the cinch down problem for safety belt systems equipped with ALRs.

NHTSA reexamined its minimum webbing travel requirements in response to this petition. The purpose of including minimum webbing travel requirements for safety belt systems equipped with ALRs was to ensure that these belt systems would be more comfortable for users than safety belt systems equipped with ALRs that cinched down. Any safety belt system equipped with an ALR that provided enhanced comfort for belt users by preventing "cinch down" would seem to fulfill the purpose served by the minimum webbing travel requirement, regardless of whether the retractor alone met that requirement. Accordingly, NHTSA tentatively determined that the current requirement for heavy vehicle safety belt systems is unnecessarily restrictive.

To reflect this tentative determination, the agency issued a July 11, 1989 notice, published at 54 FR 29069, proposing to adopt a less restrictive approach to ensuring occupant comfort when using safety belt systems equipped with ALRs. Instead of focusing solely on the workings of the retractor mechanism to determine if the belt system complies with the minimum webbing travel requirement, as the July 1988 final rule on this subject did, NHTSA proposed in this notice to examine the workings of the belt system as a whole to determine if it complies with the minimum webbing travel requirement. A bench test would be used to evaluate the workings of the belt system as a whole. First, the belt system would be buckled. Then the retractor end of the belt system would be anchored. The other end of the belt system would not be anchored during this bench test, and is referred to as the "free end" of the belt system in this rule. The belt webbing would be extended to 75 percent of its length and the ALR would be locked after this initial adjustment. A load of 20 pounds would be applied to the free end of the belt system in the direction away from the retractor. The position of the free end of the belt system would be recorded. Then the 20 pound load would be slowly released (i.e., released within a 30 second period) until the retractor moves to the next locking position. The position of the free end of the belt system would be recorded again. The distance between the recorded positions of the free end of the belt system would have to be equal to or greater than ¾ inch.

NHTSA stated in the July 11, 1989 proposal the agency's belief that this proposed bench test would be satisfied by any safety belt system incorporating an ALR that meets the current requirement for a ¾ inch spacing between ratcheting positions on the retractor. Additionally, vehicles could comply with this proposed bench test if the safety belt system incorporates a device or devices external to the ALR mechanism itself that will operate automatically to prevent cinch down. This proposed bench test would not be satisfied by devices that must be manually operated to prevent cinch down, because no manual adjustments will be performed during the bench testing.

Four commenters responded to the request for comments on this proposed action. IMMI supported the proposal. The State of Connecticut commented that it supports the concept of moving toward a more performance-oriented test of the entire safety belt system, as proposed in the NPRM, but that it was concerned about the specifics of the bench test proposed in the NPRM. More specifically, Connecticut noted that the proposed bench test would apply a 20 pound load to the free end of the belt system and slowly decrease the load until the retractor moved to the next locking position. Connecticut was concerned that the absence of some intermediate force level at which the belt system must not yet have moved to the next locking position could permit the use of safety belt systems that exert constant force levels objectionable to most wearers.

For instance, Connecticut commented that a belt system would comply with the proposed requirement if it exerted a constant 19 pound load on the wearer. According to Connecticut's comment, a constant 19 pound pull on the safety belt would be objectionable to most wearers and would not represent a satisfactory solution to the "cinch-down" problems associated with ALRs in the past. This commenter suggested that this potential problem could be avoided if the agency were to include a requirement that the free end of the belt assembly shall move less than ¾ inch when the 20 pound preload has reached 10 pounds, or some other level. Connecticut commented that this intermediate force level, whether it is set at 10 pounds or some lower level,

would be a limit on the belt tension that could be imposed on the wearer.

NHTSA was not persuaded by this comment. While Standard No. 209 does not currently establish any maximum forces that an ALR can impose on a lap belt, NHTSA is unaware of any ALRs currently in use that impose a retractor force of more than one or two pounds. Manufacturers would have no reason to now increase the retractor force up to a level of 19 pounds, because such an increase would make the retractor more expensive and the safety belt system heavier and less comfortable for wearers. Hence, there is no apparent reason for a regulatory requirement to prohibit increases from current retractor force levels.

Additionally, NHTSA does not believe that Connecticut's suggestion to establish an intermediate force level of 10 pounds has any correlation to the real life operational characteristics of an oscillating occupant in a safety belt system. For example, IMMI stated in its submissions that its device requires 14 pounds of force to extend it (which means it would not comply with Connecticut's suggested intermediate force level requirement), but that the force levels on the occupant drop to 9 pounds as soon as the occupant begins to move the system inward. Then the 9 pound force is reduced to 3 to 4 pounds at the retractor, due to belt/clothing friction. If the maximum operational force for anti-cinch devices were limited to 10 pounds, as suggested by Connecticut, it would be possible for a device to be tested at 10 pounds, operate at 5 pounds, and only provide 1 or 2 pounds of force at the retractor, which may not be sufficient to prevent the retractor spring force from extending the anti-cinch device. In effect, then, this 10 pound intermediate force would require safety belt systems to comply with the anti-cinch requirements by means of the retractor mechanism, because it would be very difficult for any anti-cinch devices external to the retractor to overcome the mass and frictional forces needed to prevent cinch-down and to comply with this intermediate force level. After considering this comment, NHTSA has concluded that the approach proposed in the NPRM offers the best balance of ensuring occupant comfort (by limiting maximum lap belt forces) while allowing maximum design flexibility for manufacturers to achieve the necessary occupant comfort.

Ford Motor Company (Ford) made a comment similar to Connecticut's. Ford stated that belt tensions of up to 20 pounds would be allowed by this proposal, and that such tension levels would be objectionable to most users. Instead, Ford commented that anti-cinch characteristics should be measured at force levels that are more typical and more likely to be acceptable to users, which Ford suggested would be not more than five pounds for the lap belt.

The agency's response to Ford's comment about the need for a test force lower than 20 pounds is the same as that offered above in Connecticut's comment about the need for a lower test force. Essentially, the agency has no reason to believe that manufacturers would raise retractor force levels above the current one or two pound level, because an increase would make the retractor heavier, bulkier, and more expensive, and would be less comfortable for the wearer.

In addition, the anti-cinch device developed by IMMI was reportedly developed to a specific force level and displacement to fulfill the needs of occupants in heavy trucks. IMMI reported that its anti-cinch device has a steady state load on the occupant of 4 to 6 pounds measured at the anti-cinch device, a corresponding load of 2 to 3 pounds when the load is measured at the retractor, but that in the bench test proposed in the NPRM for this rule 13 to 14 pounds is needed to cause the IMMI device or any other anti-cinch device external to the retractor mechanism to function. NHTSA believes that the data reported by IMMI are consistent with what would be expected and that a 13 to 14 pound minimum force level would be required for effective operation of an anti-cinch device external to the retractor mechanism. The agency is not aware of any consumer complaints about safety belt systems equipped with the IMMI anti-cinch device. To the contrary, the IMMI device appears to have proven successful in the marketplace.

This information suggests that persons operating heavy trucks have found 4 to 6 pounds of lap belt force to be reasonably comfortable. It also suggests that some systems that impose approximately 6 pounds of lap belt force in the real world require much higher force levels to function as designed when subjected to the proposed bench test. Accordingly, Ford's suggestion to establish a 5 pound maximum force level as measured in this bench test is not persuasive, nor would it be viable for any anti-cinch devices external to the retractor.

Finally, the Automotive Occupant Restraints Council (AORC) commented that, while it agrees that the requirements for safety belt comfort and convenience should not restrict design or innovation, the requirements must preclude the possibility of the introduction of excessive slack in the lap belt when it is engaged about the occupant. AORC commented that the current requirements in S4.3(i) of Standard No. 209 limit the amount of slack that can be introduced into a belt system by an ALR to one inch. AORC commented that a device that could be manually adjusted to lock-out the ALR would not appear to comply with the proposed test, because the proposed test does not provide for manual adjustment of any devices on the safety belt system. However, AORC was concerned that a device external to the retractor that did not require any manual adjustment would apparently be permitted to introduce unlimited slack under the proposed test. AORC commented that unlimited slack should not be permitted in the final rule, and asked that devices external to the retractor not be permitted to introduce more slack into the belt system than the one inch permitted for the ALR.

NHTSA agrees with AORC's comment that anti-cinch devices external to the ALR should not be permitted to introduce an unlimited amount of slack into the safety belt system. Therefore, this rule adopts a limitation on the maximum amount of slack that may be introduced by such anti-cinch devices. However, the agency does not agree with AORC that the same one inch limitation specified for the ALR should be specified for these external devices, for a number of reasons. First, allowing only two inches of slack (one inch from the ALR and one inch from the anti-cinch device) might not solve the cinch-down problem for ALRs installed in trucks that commonly experience rough riding for occupants, such as cement trucks and garbage trucks. If this rule does not solve the cinch-down problem for ALRs in those trucks, it will not have achieved its intended purpose.

Second, the larger occupant space of medium- and heavy-duty trucks means that there is a lesser safety need to minimize occupant excursion in these vehicles than is the case in smaller vehicles. For instance, a Chevrolet Caprice passenger car has a head-to-windshield header distance of 13.9 inches and a head-to-windshield distance of 18.7 inches, using a 50th percentile adult male test dummy for these measurements. A GMC Astro 95 truck tractor has a head-to-windshield header distance of 27 inches and a head-to-windshield distance of 31 inches, measured with the same size test dummy. Because of this larger occupant space, permitting greater slack in these

vehicles than would be permitted in passenger cars would not have a significant influence on restraint system effectiveness in these larger vehicles.

Third, the IMMI anti-cinch system has been designed to allow more than one inch of slack. As explained above, NHTSA is reluctant to in effect preclude the use of a currently available means of solving the cinch-down problem absent some indications of a need to do so. In this case, NHTSA is unaware of any indications of safety problems associated with the IMMI anti-cinch device. Accordingly, the agency concludes it would be inappropriate to preclude the continued use of the IMMI anti-cinch device as a means of complying with the new anti-cinch requirements for heavy trucks.

After considering these facts, the agency has decided to include in this rule a provision to limit total slack measured during this bench test of the safety belt system to three inches. This three inch total reflects a maximum of one inch slack permitted to be introduced by the ALR, pursuant to Standard No. 209, and a maximum of two inches slack associated with an anti-cinch device external to the retractor itself. The agency would like to note that the safety belt system must comply with this anti-cinch requirement without requiring any additional actions by the belt wearer. Thus, a device that could be manually adjusted to lock-out the ALR could not be the means for complying with this new requirement.

These requirements will apply to trucks, buses, and multipurpose passenger vehicles with a gross vehicle weight rating of more than 10,000 pounds manufactured on or after September 1, 1990. This date was chosen since that is also the effective date of the July 1988 amendment to Standard No. 208 requiring that the safety belt systems on these vehicles comply with the anti-cinch requirements by means of the retractor mechanism alone. This rule relieves a restriction in the July 1988 amendments by permitting the anti-cinch requirements to be satisfied either by the working of the retractor mechanism itself or by an external device that automatically operates to prevent cinch-down. This rule does not impose any additional costs on any party, since any manufacturer that wishes to comply with the anti-cinch requirements by means of the retractor mechanism will continue to be permitted to do so under this rule. Therefore, NHTSA finds for good cause that this rule should become effective on September 1, 1990, instead of at least 180 days after issuance, as specified in section 103(c) of the Safety Act (15 U.S.C. 1392(c)).

NHTSA has considered the effects of this rulemaking action and determined that it is neither "major" within the meaning of Executive Order 12291 nor "significant" within the meaning of the Department of Transportation's regulatory policies and procedures. The agency has also determined that the economic and other impacts of this rule are so minimal that a full regulatory evaluation is not required.

Those heavy vehicle manufacturers that choose to rely on the working of the retractor mechanism alone to comply with the test for "cinch down," as required by the current regulatory language will not have to change their plans in response to this final rule. On the other hand, this rule will also give manufacturers the option of adopting other innovative approaches to comply with the test for "cinch down." Those manufacturers that choose to take advantage of this rule to use an innovative means of solving "cinch down" could experience some slight cost savings. However, the costs of complying with the anti-cinch retractor requirement have been estimated throughout this rulemaking as being minimal, so any savings from the costs of anti-cinch retractors would necessarily also be minimal.

NHTSA has also considered the effects of this rule under the Regulatory Flexibility Act. I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. Few, if any, of the heavy vehicle manufacturers are small entities. To the extent that these manufacturers might experience a cost savings as a result of this proposal, the savings will be minimal, as explained above. Likewise, small organizations and small governmental entities will not be significantly affected by this rule. Although those groups do purchase heavy vehicles, this rule will not result in any price increases for heavy vehicles.

The agency has also analyzed this rule for the purposes of the National Environmental Policy Act and determined that it will not have any significant impact on the quality of the human environment.

Finally, NHTSA has considered the federalism implications of this rule, as required by Executive Order 12612, and determined that it does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

In consideration of the foregoing, 49 CFR 571.208 is amended as follows:

1. The authority citation for part 571 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

§ 571.208 [Amended]

2. S4.3.2.2 of Standard No. 208 is revised to read as follows:

S4.3.2 Trucks and multipurpose passenger vehicles with a GVWR of more than 10,000 pounds, manufactured on or after September 1, 1990. * * *

* * * * *

S4.3.2.2 Second option—belt system. The vehicle shall, at each designated seating position, have either a Type 1 or a Type 2 seat belt assembly that conforms to § 571.209 of this part and S7.2 of this Standard. A Type 1 belt assembly or the pelvic portion of a dual retractor Type 2 belt assembly installed at a front outboard seating position shall include either an emergency locking retractor or an automatic locking retractor. If a seat belt assembly installed at a front outboard seating position includes an automatic locking retractor for the lap belt or the lap belt portion, that seat belt assembly shall comply with the following:

(a) An automatic locking retractor used at a front outboard seating position that has some type of suspension system for the seat shall be attached to the seat structure that moves as the suspension system functions.

(b) The lap belt or lap belt portion of a seat belt assembly equipped with an automatic locking retractor that is installed at a front outboard seating position must allow at least ¾ inch, but less than 3 inches, of webbing movement before retracting webbing to the next locking position.

(c) Compliance with S4.3.2.2(b) of this standard is determined as follows:

(1) The seat belt assembly is buckled and the retractor end of the seat belt assembly is anchored to a horizontal surface. The webbing for the lap belt or lap belt portion of the seat belt assembly is extended to 75 percent of its length and the retractor is locked after the initial adjustment.

(2) A load of 20 pounds is applied to the free end of the lap belt or the lap belt portion of the belt assembly (i.e.,

the end that is not anchored to the horizontal surface) in the direction away from the retractor. The position of the free end of the belt assembly is recorded.

(3) Within a 30 second period, the 20 pound load is slowly decreased, until the retractor moves to the next locking position. The position of the free end of the belt assembly is recorded again.

(4) The difference between the two positions recorded for the free end of the belt assembly shall be at least ¾ inch but less than 3 inches.

3. S4.4.2.2 of Standard No. 208 is revised to read as follows:

S4.4.2 Buses manufactured on or after September 1, 1990. * * *

* * * * *

S4.4.2.2 Second option—belt system—driver only. The vehicle shall, at the driver's designated seating position, have either a Type 1 or a Type 2 seat belt assembly that conforms to § 571.209 of this part and S7.2 of this Standard. A Type 1 belt assembly or the pelvic portion of a dual retractor Type 2 belt assembly installed at the driver's seating position shall include either an emergency locking retractor or an automatic locking retractor. If a seat belt assembly installed at the driver's seating position includes an automatic locking retractor for the lap belt or the lap belt portion, that seat belt assembly shall comply with the following:

(a) An automatic locking retractor used at a driver's seating position that has some type of suspension system for the seat shall be attached to the seat structure that moves as the suspension system functions.

(b) The lap belt or lap belt portion of a seat belt assembly equipped with an automatic locking retractor that is installed at the driver's seating position must allow at least ¾ inch, but less than 3 inches, of webbing movement before retracting webbing to the next locking position.

(c) Compliance with S4.4.2.2(b) of this standard is determined as follows:

(1) The seat belt assembly is buckled and the retractor end of the seat belt assembly is anchored to a horizontal surface. The webbing for the lap belt or lap belt portion of the seat belt assembly is extended to 75 percent of its length and the retractor is locked after the initial adjustment.

(2) A load of 20 pounds is applied to the free end of the lap belt or the lap belt portion of the belt assembly (i.e., the end that is not anchored to the horizontal surface) in the direction away from the retractor. The position of the free end of the belt assembly is recorded.

(3) Within a 30 second period, the 20 pound load is slowly decreased, until the retractor moves to the next locking position. The position of the free end of the belt assembly is recorded again.

(4) The difference between the two positions recorded for the free end of the belt assembly shall be at least ¾ inch but less than 3 inches.

Issued on May 1, 1990.

Jeffrey A. Miller,

Deputy Administrator.

[FR Doc. 90-10470 Filed 5-4-90; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 646

[Docket No. 900496-0096]

Snapper-Grouper Fishery of the South Atlantic

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Emergency rule.

SUMMARY: The Secretary of Commerce (Secretary) announces an emergency amendment to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP) prohibiting the harvest or possession of jewfish in or from the exclusive economic zone (EEZ) off the South Atlantic states and issues an emergency rule implementing the prohibition. The intended effect of this rule is to respond to an emergency in the snapper-grouper fishery by reducing the fishing mortality of jewfish.

EFFECTIVE DATES: May 2, 1990, through July 31, 1990.

ADDRESSES: Copies of documents supporting this action may be obtained from Robert A. Sadler, Southeast Region, NMFS, 9450 Koger Boulevard, St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Robert A. Sadler, 813-893-3722.

SUPPLEMENTARY INFORMATION: Snapper-grouper species are managed under the FMP, prepared by the South Atlantic Fishery Management Council (Council), and its implementing regulations at 50 CFR part 646, under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). This rule implements measures to conserve and manage jewfish.

Background

Commercial and recreational fishermen who target jewfish report that the species has been decreasing in abundance and is disappearing in some areas. State fishery management personnel report that jewfish no longer occur in some areas previously inhabited by them off southeast Florida, Georgia, and South Carolina.

Jewfish are highly residential, that is, they remain associated with specific high-profile reef and wreck structures, and, thus, are easily targeted by anglers and divers. They are a curious fish that will often approach divers. In some locations, they form spawning aggregations during the summer months when diving and angling pressures are the heaviest and, thus, are even more susceptible to harvest. In addition, they are slow-growing and late-maturing fish. All of these characteristics make them highly susceptible to overfishing, and they would not be expected to recover quickly from a collapse of the resource.

Jewfish are known to range throughout the Gulf of Mexico and off the South Atlantic states but are concentrated off the west and southeast coasts of Florida. Based on preliminary data provided by the Florida Department of Natural Resources, spawning stock biomass analyses of jewfish indicate that current fishing conditions will deplete the spawning stock biomass per recruit ratio to between 1 and 11 percent of the level obtainable under a no-fishing regime. This is substantially below a reasonable level to prevent continuing stock declines. More definitive data on the spawning stock biomass and other data on jewfish are not available. In view of the relative scarcity of jewfish, such data are not likely to become available, and, consequently, a definitive stock assessment cannot readily be accomplished.

The Council has initiated Amendment 2 to the FMP, which would prohibit the harvest or possession of jewfish in the EEZ. However, Amendment 2 has not yet been submitted to the Secretary for approval. Once submitted, the amendment could not be approved and implemented for several months because of the Magnuson Act's requirements for public notice and opportunity for public comment.

Effective February 1, 1990, Florida banned possession and sale of jewfish in or from its waters. NOAA banned harvest or possession of jewfish in or from the EEZ in the Gulf of Mexico by emergency rule (55 FR 8143, March 7, 1990) for the period March 2, 1990, through May 31, 1990. The emergency rule may be extended for an additional period of not more than 90 days, and the Gulf of Mexico Fishery Management

Council has initiated an amendment to its reef fish fishery management plan that would continue that ban. The closure of the EEZ in the Gulf of Mexico and Florida's waters is expected to reduce significantly the fishing mortality of jewfish. However, the enforcement of Florida's rule is hindered on its east coast, and its effect is reduced, by lack of a compatible prohibition applicable to the EEZ adjacent to Florida's waters in the Atlantic Ocean. Accordingly, the Council requested that NOAA prohibit by emergency rule the harvest or possession of jewfish in or from the EEZ. In addition to its beneficial effect in the waters off Florida, this emergency rule provides needed additional protection for jewfish in the EEZ off the other South Atlantic states and consistent management of jewfish in the EEZ throughout their range.

The Council has found that the lack of a prohibition on harvest or possession of jewfish in the EEZ constitutes an emergency. The Secretary concurs. Accordingly, the Secretary has amended the FMP on an emergency basis and is hereby promulgating this emergency rule to be effective for 90 days, as authorized by sections 305(e)(2)(B) and (e)(3)(B) of the Magnuson Act. Upon agreement of the Secretary and the Council, the emergency amendment and rule may be extended for an additional period of not more than 90 days.

Classification

The Secretary has determined that this rule is necessary to respond to an emergency situation and is consistent with the Magnuson Act and other applicable law.

This emergency rule is exempt from the normal review procedures of E.O. 12291 as provided in section 8(a)(1) of that order. It is being reported to the Director of the Office of Management and Budget, with an explanation of why it is not possible to follow the regular procedures of that order.

This rule is exempt from the procedures of the Regulatory Flexibility Act because it is issued without opportunity for prior public comment.

This rule does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

The Secretary determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of Florida, North Carolina, and South Carolina. Georgia does not have an approved coastal zone management program. These determinations have been submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act.

The Council prepared an environmental assessment (EA) for this action which concludes that there will be no significant impact on the human environment. The Assistant Administrator for Fisheries, NOAA, concurs. A copy of the EA is available from the address above.

The Secretary finds for good cause (i.e., to prevent fishing that would seriously interfere with necessary protection of the jewfish resource) that the reasons justifying promulgation of this rule on an emergency basis also make it impracticable and contrary to the public interest to provide prior notice and opportunity for public comment on this rule, or to delay for 30 days its effective date, under the provisions of sections 553(b)(B) and (d)(3) of the Administrative Procedure Act.

List of Subjects in 50 CFR Part 641

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: May 1, 1990.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 646 is amended as follows:

PART 646—SNAPPER-GROUPER FISHERY OF THE SOUTH ATLANTIC

1. The authority citation for part 646 continues to read as follows:

Authority: 16 U.S.C. 1801 *et. seq.*

2. In § 646.6, effective from May 2, 1990, through July 31, 1990, a new paragraph (p) is added to read as follows:

§ 646.6 Prohibitions.

* * * * *

(p) Harvest or possess jewfish in or from the EEZ, as specified in § 646.20(c).

3. In § 646.20, effective from May 2, 1990, through July 31, 1990, a new paragraph (c) is added to read as follows:

§ 646.20 Harvest limitations.

* * * * *

(c) A jewfish may not be harvested or possessed in or from the EEZ.

[FR Doc. 90-10506 Filed 5-2-90; 11:46 am]

BILLING CODE 3510-22-M

50 CFR Part 661

[Docket No. 900511-0111]

Ocean Salmon Fisheries off the Coasts of Washington, Oregon, and California

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of 1990 fishery management measures and request for comments.

SUMMARY: NOAA issues this notice establishing fishery management measures for the commercial and recreational ocean salmon fisheries off Washington, Oregon, and California for 1990 and, as specified, for 1991. Specific measures vary by fishery and area. They establish fishing areas, seasons, quotas, legal gear, recreational fishing days and catch limits, possession and landing restrictions, and minimum lengths for salmon taken in the exclusive economic zone (3–200 nautical miles) off Washington, Oregon, and California. Similar regulations are being adopted for the State waters (0–3 nautical miles) by the States of Washington, Oregon, and California. The management measures are intended to prevent overfishing and to apportion the ocean harvest equitably among non-treaty commerical and recreational and treaty Indian fisheries. The regulations also are calculated to allow a portion of the salmon runs to escape the ocean fisheries to provide for treaty Indian and non-treaty inside fisheries and spawning. These management measures were established using the procedures instituted by the framework amendment to the Fishery Management Plan for Ocean Salmon Fisheries off the Coasts of Washington, Oregon, and California.

DATES: This notice will be effective from 0001 hours Pacific Daylight Time (PDT), May 1, 1990, until modified, superseded, or rescinded. Comments will be accepted until May 15, 1990.

ADDRESSES: Comments should be sent to Rolland A. Schmitten, Director, Northwest Region, NMFS, 7600 Sand Point Way NE., BIN C15700, Seattle, WA 98115–0070; or E. Charles Fullerton, Director, Southwest Region, NMFS, 300 S. Ferry Street, Terminal Island, CA 90731–7415.

FOR FURTHER INFORMATION CONTACT: William L. Robinson (Northwest Region, NMFS), 206–526–6140; Rodney R. McInnis (Southwest Region, NMFS), 213–514–6199; or Lawrence D. Six (Pacific Fishery Management Council), 503–221–6352.

SUPPLEMENTARY INFORMATION:

Background

The ocean salmon fisheries off Washington, Oregon, and California are managed under a "framework" Fishery Management Plan for Ocean Salmon fisheries off the Coasts of Washington, Oregon, and California (FMP). The framework FMP was approved in 1984 and has been amended three times since then (52 FR 4146, February 10, 1987; 53 FR 30285, August 11, 1988; 54 FR 19185, May 4, 1989). Regulations at 50 CFR part 661 provide the regulatory mechanism for making preseason and inseason adjustments to the management measures, within limits set by the FMP, by notice in the **Federal Register**.

This notice implements management measures for the 1990 and, as specified, 1991 ocean salmon fisheries as adopted by the Pacific Fishery Management Council (Council) at its April 1990 meeting.

Schedule Used to Establish 1990 Management Measures

In accordance with the FMP, the Council's Salmon Technical Team (STT) and staff economist prepared several reports for the Council, its advisors, and the public. The first report, "Review of 1989 Ocean Salmon Fisheries," summarizes the 1989 ocean salmon fisheries and assesses how well the Council's management objectives were met in 1989. The second report, "Preseason Report I: Stock Abundance Analysis for 1990 Ocean Salmon Fisheries," provides the 1990 salmon stock abundance projections and analyzes the impacts on the stocks and Council management goals if the 1989 regulations or regulatory procedures were applied to the 1990 stock abundance.

The Council met on March 6–9, 1990, in Seattle, Washington, to develop proposed management options for 1990. Three commercial and three recreational fishery management options were proposed for further analysis and public comment. These options presented various combinations of management measures designed to protect weak stocks and provide for ocean harvests of more abundant stocks of coho and chinook salmon. After the March Council meeting, the STT and staff economist prepared a third report, "Preseason Report II: Analysis of Proposed Regulatory Options for 1990 Ocean Salmon Fisheries," which analyzes the effects of the proposed 1990 management options. This report also was distributed to the Council, its advisors, and the public.

Public hearings on the proposed options were held March 27–28, 1990, in Olympia, Washington; Astoria and Coos Bay, Oregon; and Sacramento, California; and April 2, 1990, in Eureka, California.

The Council met on April 3–6, 1990, in Eureka, California, to adopt its final 1990 recommendations. Following the April Council meeting, the STT and staff economist prepared a fourth report, "Preseason Report III: Analysis of Council-Adopted Management Measures for 1990 Ocean Salmon Fisheries," which analyzes the environmental and socio-economic effects of the Council's final recommendations. This report also was distributed to the Council, its advisors, and the public.

Resource Status

Some salmon runs returning to Washington, Oregon, and California streams in 1990 are expected to be larger than in 1989. They include modest improvements in lower Columbia River spring chinook and many Washington coastal hatchery and Puget Sound natural coho salmon stocks.

Primary resource concerns are for Klamath River fall chinook; upper Columbia River spring and summer chinook; lower Columbia River fall hatchery chinook; Oregon Production Index area coho stocks destined for the Columbia River and the California and Oregon coasts, particularly Oregon coastal natural coho; and some Washington coastal and Puget Sound natural coho, particularly the Queets River and Skagit River stocks. Management of all of these stocks is impacted by interjurisdictional agreements among tribal, State, Federal, and/or Canadian managers.

Chinook Salmon Stocks

Abundance of California Central Valley chinook stocks is expected to be similar to 1989. Sacramento River fall-run chinook, which comprise the majority of Central Valley salmon, are healthy. Spawning escapement for Sacramento River fall chinook is predicted to meet the 122,000–180,000 fish goal range in 1990.

Escapements of Sacramento River winter-run chinook dwindled to only 400 adults in 1989, well below the 1988 return of 1,800 adults, and only 2 percent of the 1971–1975 average of 22,500 adults. Emergency action was taken by NMFS to list this run as a threatened species under the Endangered Species Act (ESA), 16 U.S.C. 1531 *et seq.* This emergency listing, published on August 4, 1989 (54 FR 32085) has been extended through November 28, 1990 (55 FR 12191, April 2, 1990). The record low return of only 400 adults spawners in 1989 prompted the State of California to list this run as an endangered species under State law. NMFS expects consultations under the respective State and Federal laws to produce a State/Federal regulatory regime that will ensure the winter-run population is not adversely affected by recreational or commercial fishing.

Klamath River fall-run chinook are the primary management concern in the area from Humbug Mountain off southern Oregon to Horse Mountain off northern California, the so-called "Klamath River Management Zone" (KMZ). (In 1989, the northern boundary of the KMZ was at Orford Reef Red Buoy, a few miles north of Humbug Mountain.) The estimated total ocean abundance for age-3 and age-4 Klamath River fall chinook is 279,600 fish, 30 percent lower than the 1989 preseason abundance of 397,700 fish, and 8 percent above the 1989 actual abundance of 259,800 fish. Ocean escapement to the Klamath River in 1989 totaled 122,500 adult fish, the fourth highest inriver run size since comprehensive inriver monitoring began in 1978, and 74 percent of the projected 1989 run size of 165,900 fall-run adults. The projected ocean escapement to the Klamath River in 1990 is 95,800 fish.

The spawning escapement goal for Klamath River fall chinook was set initially by Amendment 9 to the FMP to achieve a 35 percent spawning escapement rate for each brood of natural spawners, except that a minimum escapement of 35,000 naturally spawning adults is to be protected in all years. In 1989, the spawning escapement rate was modified from 35 percent to between 33 and 34 percent (54 FR 19798, May 4, 1989); this modification remains in effect for 1990.

Oregon coastal chinook stocks include south-migrating and localized stocks primarily from southern oregon streams, and north-migrating chinook stocks which generally originate in central and northern Oregon streams. Abundance of south-migrating and localized stocks is expected to be lower than 1989 levels, and similar to or below the long-term average. These stocks are important contributors to ocean fisheries off Oregon and northern California. The generalized expectation for north-migrating stocks is for a continuation of average to above average abundance, but below the level observed in recent years. These stocks contribute primarily to ocean fisheries off British Columbia and Alaska. It is expected that the aggregate Oregon coastal chinook spawning escapement goal of 150,000 to

200,000 naturally spawning adults will continue to be met.

Estimates of Columbia River chinook abundance vary by stock as follows.

(1) *Upper Columbia River spring and summer chinook.* Numbers of upriver spring chinook predicted to return to the river (92,400) are 11 percent above the 1989 run size of 83,300 fish and 63 percent greater than the 1979–1984 average of 56,600 fish. The 1990 stock status reflects improvement in the depressed status of this stock, resulting primarily from increases of hatchery stocks. The natural stock component, while showing some improvement, continues to be very depressed. Ocean escapement is expected to be significantly below the goal of 115,000 adults to be counted at Bonneville Dam. Upriver spring chinook are affected only slightly by ocean harvests off Washington and Oregon. Expected ocean escapement of adult upriver summer chinook is based on the previous 3-year average of ocean escapements (30,900). The 1990 stock status remains extremely depressed, with ocean escapement being 64 percent below the midpoint of the goal range of 80,000 to 90,000 adults to be counted at Bonneville Dam. Upriver summer chinook migrate to the far north and are not a major contributor to ocean fisheries off Washington and Oregon. However, concern for increasing harvest rates of upriver spring and summer chinook stocks within Council jurisdiction still was a major factor in determining total allowable impacts in Council fisheries for 1990.

(2) *Lower Columbia River spring chinook.* Lower river spring chinook returns are projected to be 136,700 fish, 1 percent below the 1989 run of 138,100 fish and 38 percent greater than the 1982–1986 average return of 99,200 fish. Lower river spring chinook stocks are important contributors to Council area fishery catches north of Cape Falcon, Oregon.

(3) *Columbia River fall chinook.* Four distinct fall chinook stock units initially were identified, and recently a fifth stock unit has been added, as follows.

(a) Upriver bright fall chinook ocean escapement is expected to be about 196,200 adults, 45 percent below the 1989 return of 354,500 adults, and 76 percent above the 1981–1985 average return of 111,700 adults. The escapement goal for upriver bright fall chinook is 40,000 adults above McNary Dam. This stock has a northern ocean migratory pattern and contributes less than 10 percent to Council area fisheries north of Cape Falcon.

(b) Lower river natural fall chinook ocean escapement is forecast at about 23,400 adults, 38 percent below the 1989 run size of 37,600 adults.

(c) Lower river hatchery fall chinook ocean escapement is forecast at a record low of 65,500 adults, 49 percent less than the 1989 run size of 127,200 adults. This stock has been declining sharply since the record high return in 1987. Lower Columbia River fall chinook stocks normally account for more than half the total catch in Council area fisheries north of Cape Falcon, with lower river hatchery fall chinook being the single largest contributing stock. For 1990, lower river hatchery fall chinook is the primary resource constraint on ocean chinook harvests in the area north of Cape Falcon.

(d) Spring Creek hatchery fall chinook ocean escapement is projected to be about 23,700 adults, 13 percent below the 1989 return; the 1981–1985 average ocean escapement was 63,300 adults. The Spring Creek hatchery fall chinook stock has been increasing slowly since the record low return in 1987.

(e) In recent years, the mid-Columbia bright fall chinook stock has been increasing and is at a level worthy of consideration in management planning. These fall chinook are returns primarily from hatchery releases of bright stock in the area below McNary Dam, although some natural spawning in tributaries in that area is also occurring. Mid-Columbia bright fall chinook production is included in the figures above for upriver bright fall chinook.

Washington coastal and Puget Sound chinook generally migrate to the far north and are affected insignificantly by ocean harvests from Cape Falcon to the U.S.-Canada border.

Coho Salmon Stocks

The Oregon Production Index (OPI) is an annual index of coho abundance from Leadbetter Point, Washington, south through California. Oregon coastal and Columbia River coho stocks are the primary components of the OPI. For use beginning in 1988, the Council adopted revised estimation procedures that were expected to more accurately predict abundance of the following individual OPI area stock components: public hatchery, private hatchery, Oregon coastal natural (OCN) for rivers and lakes, and Salmon Trout Enhancement Program. Prediction methodologies are described in the Council's "Preseason Report I: Stock Abundance Analysis for 1988 Ocean Salmon Fisheries." The 1990 OPI is 1,376,900 coho, 32 percent below the 1989 preseason forecast of 2,039,300 fish, and 28 percent below the 1989 observed level of 1,914,400 fish. The 1990 estimate includes 321,000 OCN coho, 28 percent below the 1989 preseason forecast of 446,200 fish, and 11 percent below the 1989 observed level of 290,200 fish. The 1989 spawning escapement of the OCN stocks was 135,000 fish, 33 percent below the spawning escapement goal of 200,000 adults.

In general, 1990 stock abundance for Washington coastal and Puget Sound coho is expected to be slightly improved over 1989. Ocean escapements expected from 1990 Council management measures are sufficient to provide for some inside area fishery harvest and still achieve spawning escapement goals or minimum acceptable levels for most Washington coastal and Puget Sound natural coho stocks.

Queets River and Skagit River natural coho escapements continue to be the primary resource conservation constraints in both ocean and inside fisheries. Queets River natural coho ocean escapement is expected to be just above the lower end of the spawning escapement goal range. Skagit River natural coho will not meet the spawning escapement goal after inside fisheries take place. Federal, State, and tribal managers negotiated preseason agreements on 1990 spawning escapement goals for these stocks based on the predicted low stock abundances and socio-economic concerns of treaty Indian and non-treaty Indian fishermen.

Pink Salmon Stocks

Major pink salmon runs return to the Fraser River and Puget Sound only in odd-numbered years. Consequently, pink salmon runs are not of management concern in 1990.

Management Measures for 1990

The Council adopted allowable ocean harvest levels and management measures for 1990 and, as specified, for 1991, which are designed to apportion the burden of protecting weak stocks equitably among ocean fisheries and to allow maximum harvest of natural and hatchery runs surplus to inside fishery and spawning needs.

South of Cape Falcon

In the area south of Cape Falcon, management measures were adopted based primarily on concerns for Klamath River fall chinook, Sacramento River winter chinook, and Oregon coastal natural coho salmon. The greatest constraint on ocean management measures, however, was the Council's decision to provide for a 37.5 percent ocean harvest rate on Klamath River fall chinook. The Council considered a range of ocean harvest rates recommended by the Klamath Fishery Management Council between

40 percent, as proposed by commercial salmon trollers, and 35 percent, which the Klamath Indian tribes felt reflected a binding agreement reached in the Klamath Fishery Management Council several years ago. The Council's recommendation of 37.5 percent is a compromise between the extremes of the proposed range which is designed to meet the 33–34 percent spawning escapement rate for Klamath River fall chinook required by Amendment 9, to provide adequate numbers of fish for inriver fisheries (tribal commercial and ceremonial and subsistence and non-tribal sport fisheries), and to provide an adequate ocean harvest for the benefit of coastal communities within the KMZ and in adjacent areas.

Commercial troll fisheries in the area between Sisters Rocks, Oregon, and Punta Gorda, California, will be limited to an overall quota of 18,400 chinook through August 31. Troll fisheries in other areas south of Cape Falcon are not limited by any chinook quotas. Troll fisheries south of Cape Falcon will be limited to an overall impact (catch and hooking mortality) quota of 241,000 coho and a preseason catch quota of 167,000 coho. There is a subarea impact ceiling of 102,000 coho south of Cascade Head, Oregon. A catch of 65,000 coho in the subarea between Cape Falcon and Cascade Head triggers a landing limit in that area requiring 1 chinook for each coho until the overall coho quota is reached. A separate subarea catch quota of 5,000 coho south of Horse Mountain, California, is reserved preseason by deducting it from the overall preseason catch quota and subarea catch ceiling. This reserve will be available upon attainment of the overall catch quota or subarea catch ceiling minus the deduction. If either the overall quota or catch ceiling is exceeded before the fisheries can be closed, the overage will not be subtracted from the reserve.

From Horse Mountain to the U.S.-Mexico border, the commercial all-except-coho fishery will open May 1 through May 31, then reopen for all salmon June 1 through the earlier of September 30 or subarea coho quota, except that the area between Horse Mountain and Point Arena will close May 30 through June 5, June 12 through June 19, June 26 through July 3, July 10 through July 17, and July 24 through July 31. If the subarea coho quota (5,000-fish reserve) is reached, the fishery will reopen for all salmon except coho and continue through September 30.

The areas between Humbug Mountain and Sisters Rocks, Oregon, and between Punta Gorda and Horse Mountain, California, will be closed to commercial salmon fishing throughout the season. The all-except-coho fishery between Sisters Rocks and House Rock, Oregon, will open May 1 through the earlier of May 14 or 6,200 chinook quota, only within 0 to 6 nautical miles of shore. The fishery between Sisters Rocks and Punta Gorda will have two open periods, August 1 through August 6 and August 15 through August 31, under a 12,200 chinook quota; upon attainment of the coho quota, the seasons continue for all salmon except coho; and the conservation zone at the mouth of the Klamath River is closed throughout the season. The all-salmon fishery between Trinidad Head and Punta Gorda, California, will open September 3 through the earliest of October 31 or 15,000 chinook quota, only within 0 to 6 nautical miles of shore. The all-except-coho fishery between Sisters Rocks and Mack Arch, Oregon, will open September 3 through the earliest of September 16 or 7,500 chinook quota, only within 0 to 6 nautical miles of shore.

In the area between Cape Falcon and Humbug Mountain, the all-except-coho fishery will open May 1 through June 25. The all-salmon fishery between Cascade Head and Humbug Mountain will open July 4 through the earliest of August 31 or coho quota or ceiling, except that the area between Cape Arago and Humbug Mountain will close July 10 through July 17, July 24 through July 31, and August 7 through August 14. Upon attainment of the coho quota or ceiling, the season continues for all salmon except coho. The fishery between Cape Falcon and Cascade Head will open for all salmon except coho July 4 through July 15, reopen for all salmon July 16 through the earliest of August 31 or coho quota, and upon attainment of the coho quota, will reopen for all salmon except coho. The fishery between Cape Falcon and Humbug Mountain will open for all salmon except coho September 1 through October 31. An all-salmon fishery within State waters in the area off Coos Bay, Oregon, is proposed for the first two weeks in November; participation is limited to 10 vessels requiring preregistration with the Oregon Department of Fish and Wildlife by July 1, 1990.

The timing of the March and April Council meetings makes it impracticable for the Council to recommend fishing seasons that begin before May 1 of the same year. Thus, any opening earlier than May 1, 1991, must be provided for at this time. The Council has recommended that the commercial troll fishery off California open April 15, 1991, and the recreational fishery south of Horse Mountain open the nearest Saturday to February 15, 1991. Because the Sacramento River winter-run chinook have been listed as a threatened species under the ESA (see "Resource Status" above), the Council will be required to consult with NMFS regarding the impacts of these seasons on winter-run chinook before the proposed opening dates occur. The formal consultation process under section 7 of the ESA may result in the Council recommending that the opening dates and/or areas be modified or even rescinded. The Secretary concurs with this process. Notice of any modifications will be published in the **Federal Register** in accordance with the procedures in 50 CFR 661.23.

The recreational fisheries south of Cape Falcon will be limited by an overall catch quota of 235,000 coho. Any portion of the recreational quota not needed to complete scheduled recreational seasons will be reallocated to the commercial fishery about August 1. The all-salmon fishery between Horse Mountain and the U.S.-Mexico border opens on the nearest Saturday to February 15 through the nearest Sunday to November 15 with a 2 fish daily bag limit. The conservation zone at the mouth of San Francisco Bay was closed March 1 through April 30 and will close November 1 through April 30, 1991 (55 FR 14837, April 19, 1990). This conservation zone was established to minimize the incidental harvest of Sacramento River winter-run chinook. As stated in the previous paragraph, formal consultation with regard to the impacts that ocean salmon fisheries have on this run may result in the modification of the February 1991 opening date and/or areas for this fishery.

The recreational all-salmon fishery between Humbug Mountain and Horse Mountain will open May 1 through September 9 with a 2 fish daily bag limit, except during June 30 through August 15 only one may be a chinook; no more than 6 fish in 7 consecutive days; and the conservation zone at the mouth of the Klamath River is closed August 1 through August 31. The area between Trinidad Head and Punta Gorda will open for all salmon September 10 through October 31 with a 2 fish daily bag limit, no more than 6 fish in 7 consecutive days, and only within 0 to 6 nautical miles of shore.

The recreational all-salmon fishery between Cape Falcon and Humbug Mountain will have three separate seasons, all of which will have a 2 fish daily bag limit and no more than 6 fish

in 7 consecutive days. The first season will open May 1 through May 27 only within the 27-fathom curve. The second season will open May 28 through June 22. The third season will open June 30 through the earlier of September 16 or overall coho quota except it may close August 1 through August 7 if needed to maintain season duration based on an evaluation of the STT on July 25.

North of Cape Falcon

From the U.S.-Canada border to Cape Falcon, ocean fisheries are managed to protect depressed upper Columbia River spring and summer chinook, lower Columbia River hatchery fall chinook, Queets River natural coho, and Skagit River natural coho. Ocean treaty and non-treaty harvests and management measures were established by the Council based on negotiations among fishery managers and user group representatives as authorized by the U.S. District Court in *U.S.* v. *Washington, U.S.* v. *Oregon*, and *Hoh Indian Tribe et al.* v. *Baldrige*. Not all fishery managers and user groups agreed with the management measures.

The process of determining the total allowable chinook catch in the ocean north of Cape Falcon was complicated by lack of agreement between the Columbia River tribes and the northwest Washington tribes and non-treaty fishermen. In order to effect a reduction in the harvest rates on upper Columbia River spring and summer chinook relative to 1989 levels, the Columbia River tribes proposed a 10 percent reduction from the 1989 actual catch levels for treaty and non-treaty fisheries in 1990. The Council compromised by reducing the treaty troll chinook quota from the 35,000 fish proposed to 31,200 fish, and deducted 2,500 fish each from the non-treaty commercial troll and recreational fisheries thus reducing the non-treaty total allowable chinook catch from 80,000 to 75,000 fish. The net effect of the compromise adopted by the Council in terms of number of fish returning to the Columbia River is not significantly different from the Columbia River tribes' proposal.

All non-treaty commercial troll and recreational ocean fisheries will be limited by either an overall 75,000 chinook quota, or impacts on critical Washington coastal and Puget Sound natural coho stocks equivalent to the preseason coho quota of 350,000 (including coho hooking mortality associated with May/June chinook fisheries). On or about August 15, the STT will project the number of chinook required to fully harvest the remaining recreational coho quota. If excess chinook are available, up to 2,500 chinook may be reallocated to the troll all-salmon fishery north of Cape Falcon.

The commercial all-except-coho fishery from the U.S.-Canada border to Cape Falcon will open May 1 through the earlier of June 15 or 26,100 chinook quota. The all-salmon fishery between the U.S.-Canada border and Cape Falcon will open August 18 through August 21 and August 25 through August 28 (cycles or 4 days open and 3 days closed) or attainment of overall chinook quota or 82,000 coho quota. This fishery is subject to a landing limit that may be adjusted up or down after the first open period to aid in achieving the coho quota or staying within a guideline of 8,400 chinook. If sufficient quota remains, the season may reopen north of Leadbetter Point, Washington, September 1 under the same cycle of 4 days open and 3 days closed through the earliest of October 1 or chinook or coho quota. The all-salmon fishery in State waters between Cape Alava and the south end of Destruction Island will open September 15 through earliest of October 15 or overall chinook quota or 3,000 coho quota, only within 0 to 3 nautical miles of shore, and is limited by State regulations to 15 vessels requiring preregistration with the Washington Department of Fisheries by July 1, 1990. The all-salmon fishery between Leadbetter Point and Cape Falcon will open 3 days after the closure of the August fishery between the U.S.-Canada border and Cape Falcon but not later than September 1 and continue through the earliest of October 15 or overall chinook quota or 20,000 coho quota. The conservation zone at the mouth of the Columbia River will be closed throughout the season.

Recreational all-salmon fisheries north of Cape Falcon are divided into four subareas. Unlike 1989, there is no all-except-coho season. Opening dates and subarea quotas are as follows: between Leadbetter Point and Cape Falcon, open June 24 with a 122,500 coho subarea quota; between the Queets River and Leadbetter Point, open June 18 with a 94,300 coho subarea quota; between Cape Alava and the Queets River, open July 2 with a 3,000 coho subarea quota; and between the U.S.-Canada border and Cape Alava, open July 2 with a 24,900 coho subarea quota. The fisheries in all subareas will be open Sunday through Thursday only, have a 2 fish daily bag limit, and will close the earliest of September 20 or subarea coho quota or overall chinook quota. The recreational fisheries will be limited by overall catch quotas of 37,500 chinook and 245,000 coho. Chinook guidelines for each subarea will provide a basis for inseason management measures to restrain chinook harvest but will not serve as quotas. The conservation zone at the mouth of the Columbia River is closed throughout the season.

Treaty troll fisheries north of Cap Falcon are governed by quotas of 31,200 chinook and 90,000 coho salmon. Treaty troll seasons, minimum length restrictions, and gear restrictions were developed by the tribes and agreed to by the Council. The all-except-coho seasons will open May 1 and extend through June 30, if the chinook quota is not reached. The all-salmon seasons will open no earlier than July 1 and extend through the earliest of September 30 or chinook or coho quota. The minimum length restrictions for all treaty ocean fisheries, excluding ceremonial and subsistence harvest, is 24 inches for chinook and 16 inches for coho.

The following tables and text reflect the management measures recommended by the Council for 1990 and, as specified, for 1991. The Secretary concurs with these recommendations and finds them responsive to the goals of the FMP, the requirements of the resource, and the socio-economic factors affecting resource users. The recommendations are consistent with requirements of the Magnuson Fishery Conservation and Management Act and other applicable law including US obligations to Indian tribes with treaty-secured fishing rights.

The following management measures are adopted for 1990 and, as specified, for 1991 under 50 CFR part 661.

BILLING CODE 3510-22-M

Table 1.--Commercial management measures for 1990 ocean salmon fisheries.

(Note: This table contains important restrictions in Parts A, B, C, D, and E which must be followed for lawful participation in the fishery.)

A. SEASONS, SPECIES, AND SUBAREA QUOTAS

Area and season	Salmon species	Quota or guideline (*) Chinook	Coho	Restrictions and exceptions
U.S.-CANADA BORDER TO CAPE FALCON:				
May 1 thru earlier of June 15 or chinook quota	All except coho	26,100	--	Conservation Zone 1 (C.3), Columbia River mouth, is closed. See D.2.
U.S.-CANADA BORDER TO CAPE FALCON:				
August 18 thru August 21, August 25 thru August 28, or earliest of chinook or coho quota	All	(E.1) 8,400*	82,000	Conservation Zone 1 (C.3), Columbia River mouth, is closed. See D.3.
U.S.-CANADA BORDER TO LEADBETTER POINT:				
September 1 thru September 4, September 8 thru September 11, September 15 thru September 18, September 22 thru September 25, September 29 thru October 1, or earliest of chinook or coho quota	All	(E.1)	(E.1)	See D.3.
CAPE ALAVA TO SOUTH END OF DESTRUCTION ISLAND:				
September 15 thru September 16, September 19 thru earliest of chinook or coho quota	All	(E.1) 1,000*	3,000	Closed 3 to 200 nautical miles of shore. See D.4.
LEADBETTER POINT TO CAPE FALCON:				
Earlier of 3 days after August closure from U.S.-Canada border to Cape Falcon or September 1 thru earliest of October 15 or chinook or coho quota	All	(E.1) 2,000*	20,000	Conservation Zone 1 (C.3), Columbia River mouth, is closed. See D.5.
CAPE FALCON TO HUMBUG MOUNTAIN:				
May 1 thru June 25	All except coho	None	--	
CAPE FALCON TO CASCADE HEAD:				
July 4 thru July 15	All except coho	None	--	
July 16 thru earlier of August 31 or coho quota	All	None	(E.2)	See D.6.
Coho quota thru August 31	All except coho	None	--	
CASCADE HEAD TO HUMBUG MOUNTAIN:				
July 4 thru earliest of August 31 or coho quota or subarea coho ceiling	All	None	(E.2)	CAPE ARAGO TO HUMBUG MOUNTAIN is closed July 10 thru July 17, July 24 thru July 31, and August 7 thru August 14. See D.7.
Earlier of coho quota or subarea coho ceiling thru August 31	All except coho	None	--	Same as above.
CAPE FALCON TO HUMBUG MOUNTAIN:				
September 1 thru October 31	All except coho	None	--	
HUMBUG MOUNTAIN TO SISTERS ROCKS:				
Closed entire season				
SISTERS ROCKS TO HOUSE ROCK:				
May 1 thru earlier of May 14 or chinook quota	All except coho	6,200	--	Closed 6 to 200 nautical miles of shore. See D.8.

Area and season	Salmon species	Quota Chinook	Quota Coho	Restrictions and exceptions
SISTERS ROCKS TO PUNTA GORDA:				
August 1 thru August 6, August 15 thru August 31, or earliest of chinook or coho quota	All	12,200	(E.2)	Conservation Zone 2 (C.4), Klamath River mouth, is closed. See D.8.
Coho quota thru end of scheduled seasons above	All except coho	(E.3)	--	Same as above.
SISTERS ROCKS TO MACK ARCH:				
September 3 thru earlier of September 16 or chinook quota	All except coho	7,500	--	Closed 6 to 200 nautical miles of shore. See D.8.
TRINIDAD HEAD TO PUNTA GORDA:				
September 3 thru earlier of October 31 or chinook quota	All	15,000	None	Closed 6 to 200 nautical miles of shore. See D.8.
PUNTA GORDA TO HORSE MOUNTAIN:				
Closed entire season				
HORSE MOUNTAIN TO U.S.-MEXICO BORDER:				
May 1 thru May 31	All except coho	None	--	**HORSE MOUNTAIN TO POINT ARENA** is closed May 30 thru May 31.
June 1 thru earlier of September 30 or coho reserve	All	None	(E.2)	**HORSE MOUNTAIN TO POINT ARENA** is closed June 1 thru June 5, June 12 thru June 19, June 26 thru July 3, July 10 thru July 17, July 24 thru July 31.
Coho reserve thru September 30	All except coho	None	--	Same as above.

B. MINIMUM SIZE LIMITS (Inches)

	Chinook		Coho		Pink
	Total Length	Head-off	Total Length	Head-off	
North of Cape Falcon	28.0	21.5	16.0	12.0	None
Cape Falcon to Humbug Mountain	26.0	19.5	16.0	12.0	None
South of Humbug Mountain	26.0	19.5	22.0	16.5	None

Chinook not less than 26 inches (19.5 inches head-off) taken in open seasons south of Cape Falcon may be landed north of Cape Falcon only when the season is closed north of Cape Falcon.

C. GENERAL REQUIREMENTS, RESTRICTIONS, AND EXCEPTIONS

1. Hooks - Single point, single shank barbless hooks are required.

2. Line Restriction - Off California, no more than six lines per boat are allowed.

3. Conservation Zone 1 - The ocean area surrounding the Columbia River mouth bounded by a line extending for 6 nautical miles due west from North Head along 46°18'00" N. latitude to 124°13'18" W. longitude, then southerly along a line of 167° True to 46°11'06" N. latitude and 124°11'00" W. longitude (Columbia River Buoy), then northeast along Red Buoy Line to the tip of the south jetty, is closed.

4. Conservation Zone 2 - The ocean area surrounding the Klamath River mouth bounded on the north by 41°38'48" N. latitude (approximately 6 nautical miles north of the Klamath River mouth), on the west by 124°23'00" W. longitude (approximately 12 nautical miles of shore), and on the south by 41°26'48" N. latitude (approximately 6 nautical miles south of the Klamath River mouth), is closed.

5. Transit Through Closed Areas with Salmon on Board - It is unlawful for the owner and operator of a vessel to have troll gear in the water while transiting any area closed to salmon fishing while possessing salmon.

6. Consistent with Council management objectives, the State of Oregon may establish some additional late season, all-except-coho fisheries in state waters. A new all-salmon fishery is proposed for 1990 within state waters in the area off Coos Bay during the first two weeks of November. This will be a limited participation fishery of 10 vessels requiring preregistration with the Oregon Department of Fish and Wildlife by July 1, 1990. If over 10 vessels apply, a random selection (drawing) will occur. Expected coho impacts from this fishery have been included in STT harvest modeling.

7. All waters south of the Oregon-California border shall open in an all-salmon-except-coho season April 15, 1991 and in subsequent years unless the Council recommends that the Secretary of Commerce modify or rescind the April 15 opening date and areas for any of the following reasons: (1) Sacramento River or Klamath River fall chinook ocean abundance estimates are projected to be below that necessary to meet spawning escapement goals or rate and at the same time achieve ocean and inriver harvest needs, or (2) other salmon stocks may be adversely impacted.

D. POSSESSION, LANDING, AND SPECIAL RESTRICTIONS BY MANAGEMENT AREA

If prevented by unsafe weather conditions or mechanical problems from meeting special management area landing restrictions, vessels must notify the U.S. Coast Guard and receive acknowledgement of such notification prior to leaving the area. This notification shall include the name of the vessel, port where delivery will be made, approximate amount of salmon (by species) on board, and the estimated time of arrival.

1. It is illegal to meet species ratio landing restrictions by including any salmon which have been previously landed.

2. U.S.-Canada Border to Cape Falcon, May/June All-Except-Coho Season - Following any closure of this fishery, vessels must land and deliver the fish within 48 hours of the closure. The State of Oregon may require vessels landing fish from this fishery to the area south of Cape Falcon to notify the Newport office of the Oregon Department of Fish and Wildlife between 8 a.m. and 5 p.m. on the day of landing or the following weekday if such landing occurs on a weekend or outside office hours. The notification shall include the name of the vessel, port where delivery will be made, and the number of chinook landed.

3. U.S.-Canada Border to Cape Falcon, All-Salmon Season - The fishery will follow a cycle of 4 days open and 3 days closed, continuing the cycle until reaching the earliest of August 31 or the overall chinook quota or subarea coho quota. Each participating vessel may land no more than 20 chinook and 200 coho during the first open period. The landing limit may be adjusted up or down for additional open periods after the first one to aid in achieving the coho quota and the chinook guideline. Vessels must land and deliver in the area. All Salmon must be landed within 24 hours of each closure. If sufficient chinook quota and coho quota remain after August 31, the fishery will continue in the same 4 days open and 3 days closed cycle only in the area north of Leadbetter Point to the U.S.-Canada border until the earlier of October 1 or the chinook quota or coho quota is met.

4. Cape Alava to South End of Destruction Island Inside 3 Miles, All-Salmon Season - This is a limited participation fishery of 15 vessels requiring preregistration with the Washington Department of Fisheries by July 1, 1990. If over 15 vessels apply, a random selection (drawing) will occur. The fishery will open for 2 days and close 2 days for evaluation. Vessels must land and deliver within 24 hours of the closure at Neah Bay, LaPush, or Westport. Fishery reopens on September 19 if enough harvest remains to proceed with at least 1 day of fishing. Onboard observers may be required.

5. Leadbetter Point to Cape Falcon, All-Salmon Season - A single daily landing limit of 50 coho. No restriction on chinook (daily limit may be instituted inseason if necessary). All salmon caught in the area must be landed in the area or in adjacent closed areas.

6. Cape Falcon to Cascade Head, All-Salmon Season - There is no limit on the number of chinook that may be landed. A single daily landing limit per vessel of 50 coho is permitted without also landing chinook. To land more than 50 coho, at least 1 chinook must be landed for each coho landed in excess of 50. The landing ratio may be adjusted inseason to assure harvest of the quota. When the estimated impact (combined catch and hooking mortality) in this area reaches 30 percent of the overall coho impact quota south of Cape Falcon, at least 1 chinook must be landed for each coho landed during the remainder of the all-salmon season, except a landing of 1 coho and no chinook is allowed. Mixed loads of chinook and coho or coho-only loads must be delivered within this management area, any adjacent closed area, or in the area from Cascade Head to Humbug Mountain if the landing meets the landing restriction in effect for that area. All chinook in possession must be delivered with the coho. There are no restrictions on the place of delivery of chinook-only loads. Chinook and coho salmon possessed or landed in this management area may not be returned or transferred to any vessels except vessels licensed to buy salmon.

7. Cascade Head to Humbug Mountain, All-Salmon Season. There is no limit on the number of chinook that may be landed. To land coho, at least 1 chinook must be landed for each coho landed, except that a landing of 1 coho and no chinook is allowed. This ratio may be adjusted inseason to assure complete harvest of the quota. Mixed loads of chinook and coho must be delivered within this management area (or adjacent closed area). All chinook in possession must be delivered with the coho. There are no restrictions on the place of delivery of chinook-only loads. Chinook and coho salmon possessed or landed in this management area may not be returned or transferred to any vessels except vessels licensed to buy salmon.

8. Sisters Rocks to Punta Gorda - All salmon caught in fisheries in this area must be landed within the area.

E. QUOTAS

1. Chinook and Coho Quotas North of Cape Falcon - All non-treaty troll and recreational ocean fisheries will be limited by either (a) an overall 75,000 chinook quota, or (b) impacts on critical Washington coastal and Puget Sound natural coho stocks equivalent to the preseason coho quota of 350,000 (including hooking mortality associated with May/June chinook fisheries). The troll fishery will be limited by overall quotas of 37,500 chinook and 105,000 coho. The overall troll chinook quota is partitioned into an all-except-coho season subquota of 26,100 and an overall all-salmon season subquota of 11,400. The overall troll coho quota is partitioned into 82,000 for the initial all-salmon season, 3,000 coho for the late season north of Leadbetter Point and 20,000 coho for the late season south of Leadbetter Point. Impacts from quota overages or underages from one fishing period or subarea will be subtracted from or added to later fishing periods of the same user group or transferred between the recreational and commercial fisheries in accordance with framework allocation transfer criteria. On or about August 15, the STT will project the number of chinook required to fully harvest the remaining recreational coho quota. If excess chinook are available, up to 2,500 chinook may be reallocated to the troll all-salmon fishery north of Cape Falcon.

2. Coho Quotas South of Cape Falcon - The troll fishery from Cape Falcon to the U.S.-Mexico border will be limited to an overall combined catch and hooking mortality (impact quota) of 241,000 coho. The overall preseason catch quota for this impact is 167,000 coho. There is a 70 percent subarea impact ceiling (catch plus hooking mortality) within the overall impact quota which allows a harvest of no more than 102,000 coho south of Cascade Head. A subarea catch of 65,000 coho in the area between Cape Falcon and Cascade Head triggers a landing limit in that area requiring 1 chinook for each coho until the overall coho quota is reached. A separate subarea catch quota of 5,000 coho will be reserved preseason for the troll fishery south of Horse Mountain by deducting it from the overall preseason catch quota and the subarea catch ceiling. The subarea catch-quota reserve will be available upon attainment of the overall catch quota or the subarea catch ceiling minus the 5,000 deduction. If either the overall quota or 70 percent ceiling is exceeded before the fisheries can be closed, the overage will not be subtracted from the 5,000 coho reserve. An inseason rollover to the troll fishery of any portion of the south of Cape Falcon recreational quota projected to be in excess of sport fishery needs will be made about August 1.

3. Chinook Quotas Between Sisters Rocks and Punta Gorda - The troll fishery in this area will be limited by an overall quota of 18,400 chinook through August 31. This quota is divided into two subquotas as follows: (1) 6,200 chinook for the May 1-14 fishery between Sisters Rocks and House Rock, and (2) 12,200 chinook for the entire area in the August 1-6 and August 15-31 fisheries. Any overages or underages in meeting a subquota for one time period will be subtracted from or added to the next troll fishery prior to August 31. There are two chinook quotas governing September and October troll fisheries of (1) 7,500 chinook between Sisters Rocks and Mack Arch, and (2) 15,000 chinook between Trinidad Head and Punta Gorda.

Table 2.--Recreational management measures for 1990 ocean salmon fisheries.

(Note: This table contains important restrictions in Parts A, B, C, and D which must be followed for lawful participation in the fishery.)

A. SEASONS, SPECIES, SUBAREA QUOTAS, AND BAG LIMITS

Area and season	Salmon species	Quota or guideline (*) Chinook	Coho	Restrictions and exceptions
U.S.-CANADA BORDER TO CAPE ALAVA:				
July 2 thru earliest of September 20 or chinook or coho quota, Sunday thru Thursday only	All	(D.1) 4,400*	24,900	2 fish per day.
CAPE ALAVA TO QUEETS RIVER:				
July 2 thru earliest of September 20 or chinook or coho quota, Sunday thru Thursday only	All	(D.1) 500*	3,300	2 fish per day.
QUEETS RIVER TO LEADBETTER POINT:				
June 18 thru earliest of September 20 or chinook or coho quota, Sunday thru Thursday only	All	(D.1) 19,500*	94,300	2 fish per day.
LEADBETTER POINT TO CAPE FALCON:				
June 24 thru earliest of September 20 or chinook or coho quota, Sunday thru Thursday only	All	(D.1) 13,100*	122,500	2 fish per day. Conservation Zone 1 (C.2), Columbia River mouth, is closed.
CAPE FALCON TO HUMBUG MOUNTAIN:				
May 1 thru May 27	All	None	(D.2)	2 fish per day; no more than 6 fish in 7 consecutive days. Closed outside the 27 fathom curve (C.5).
May 28 thru June 22	All	None	(D.2)	2 fish per day; no more than 6 fish in 7 consecutive days.
June 30 thru earlier of September 16 or coho quota	All	None	(D.2)	2 fish per day; no more than 6 fish in 7 consecutive days. Closed August 1 thru August 7 if needed to maintain season duration as a result of STT evaluation on July 25.
HUMBUG MOUNTAIN TO HORSE MOUNTAIN:				
May 1 thru September 9	All	None	None	2 fish per day; except June 30 thru August 15 only 1 may be a chinook; no more than 6 fish in 7 consecutive days. Conservation Zone 2 (C.3), Klamath River mouth, is closed August 1 thru August 31.
TRINIDAD HEAD TO PUNTA GORDA:				
September 10 thru October 31	All	None	None	2 fish per day; no more than 6 fish in 7 consecutive days. Closed 6 to 200 nautical miles of shore.
HORSE MOUNTAIN TO U.S.-MEXICO BORDER:				
Nearest Saturday to February 15 thru nearest Sunday to November 15	All	None	None	2 fish per day. Conservation Zone 3 (C.4), mouth of San Francisco Bay, is closed March 1 thru April 30, 1990 and November 1, 1990 thru April 30, 1991.

B. MINIMUM SIZE LIMITS (Total Length in Inches)

	Chinook	Coho	Pink
North of Cape Falcon	24.0	16.0	None
Cape Falcon to Humbug Mountain	20.0	16.0	None
South of Humbug Mountain	20.0	20.0	None, except 20.0 off California

C. SPECIAL REQUIREMENTS, RESTRICTIONS, AND EXCEPTIONS

1. Hooks - Single point, single shank barbless hooks are required north of Point Conception, California.

2. Conservation Zone 1 - The ocean area surrounding the Columbia River mouth bounded by a line extending for 6 nautical miles due west from North Head along 46°18'00" N. latitude to 124°13'18" W. longitude, then southerly along a line of 167° True to 46°11'06" N. latitude and 124°11'00" W. longitude (Columbia River Buoy), then northeast along Red Buoy Line to the tip of the south jetty, is closed.

3. Conservation Zone 2 - The ocean area surrounding the Klamath River mouth bounded on the north by 41°38'48" N. latitude (approximately 6 nautical miles north of the Klamath River mouth), on the west by 124°23'00" W. longitude (approximately 12 nautical miles of shore), and on the south by 41°26'48" N. latitude (approximately 6 nautical miles south of the Klamath River mouth), is closed August 1 through August 31.

4. Conservation Zone 3 (Sacramento River Winter-Run Chinook Conservation Closure) - The ocean area bounded by a line commencing at Seal Rocks (37°46'46" N. latitude, 122°30'57" W. longitude); then to a point on the coast a distance of 5 nautical miles 155° True; then along a line at 288° True for 7.4 nautical miles to buoy #2; then along a straight line to buoy #1; then from buoy #1 along a line 12° True to a point on the coast a distance of 5.7 nautical miles north and along a line of 133° True for 5.2 nautical miles to the point of beginning, is closed March 1 through April 30, 1990, and November 1, 1990 through April 30, 1991.

5. Area Within the 27 Fathom Curve - The ocean area that is bounded by a line from Cape Falcon to 45°46'00" N., 124°01'20" W. (approximately 1.6 nautical miles west of Cape Falcon) to 45°04'15" N., 124°04'00" W. (approximately 2.2 nautical miles northwest of Cascade Head) to 44°40'40" N., 124°09'15" W. (approximately 3 nautical miles west of Yaquina Head) to 44°08'30" N., 124°12'00" W. (approximately 3 nautical miles west of Heceta Head) to 43°40'15" N., 124°14'30" W. (approximately 0.5 nautical mile west of the Umpqua Whistle Buoy) to 43°31'30" N., 124°17'00" W. (approximately 1.7 nautical miles west of the beach) to 43°15'15" N., 124°28'00" W. (approximately 3 nautical miles west of the beach) to 43°15'15" N., 124°28'00" W. (approximately 3 nautical miles west of the beach) to 43°01'30" N., 124°29'05" W. (approximately 2 nautical miles west of Four Mile Creek) to 42°56'00" N., 124°33'10" W. (approximately 2.4 miles west of the mouth of Floras Creek) to 42°50'20" N., 124°38'30" W. (approximately 3.4 nautical miles west of Cape Blanco) to 42°40'30" N., 124°28'45" W. (approximately 1.1 nautical mile west of Humbug Mountain) to Humbug Mountain.

6. Inseason Management - To meet preseason management objectives, certain inseason regulatory modifications may be necessary, such as action to extend the duration of fisheries to the end of scheduled seasons or to keep within chinook harvest guidelines for management subareas. North of Cape Falcon such actions might include but are not limited to: closure from 0 to 3, or 0 to 6, or 3 to 200, or 5 to 200 nautical miles of shore; close from a point extending due west from Tatoosh Island for 5 miles, then south to a point due west of Umatilla Reef Buoy, then due east to shore; close from the North Head at the Columbia River mouth north to Leadbetter Point; and change species which may be landed.

D. QUOTAS

1. Chinook and Coho Quotas North of Cape Falcon - All non-treaty troll and recreational ocean fisheries will be limited by either (a) an overall 75,000 chinook quota, or (b) impacts on critical Washington coastal and Puget Sound natural coho stocks equivalent to the preseason coho quota of 350,000. The recreational fishery will be limited by overall catch quotas of 37,500 chinook and 245,000 coho. Impacts from quota overages or underages in each subarea will be subtracted from or added to any remaining recreational fisheries or may be transferred to the commercial fisheries in accordance with the framework allocation. On or about August 15, the STT will project the number of chinook required to fully harvest the remaining recreational coho quota. If excess chinook are available, up to 2,500 chinook may be reallocated to the troll all-salmon fishery north of Cape Falcon.

2. Coho Quotas South of Cape Falcon - Overall recreational catch is limited to 235,000 coho salmon from Cape Falcon to the U.S.-Mexico border. Any portion of the recreational quota not needed to complete scheduled recreational seasons will be reallocated to the commercial fishery about August 1. The fishery south of Humbug Mountain does not close if the recreational coho quota is reached.

Table 3.--Treaty Indian management measures for 1990 ocean salmon fisheries.

(Note: This table contains important restrictions in Parts A, B, and C which must be followed for lawful participation in the fishery.)

A. SEASONS, SPECIES, MINIMUM SIZE LIMITS, AND GEAR RESTRICTIONS

Tribe and area boundaries	Open seasons	Salmon species	Minimum size limit (inches) Chinook	Coho	Special restrictions by area
MAKAH - That portion of the Fishery Management Area (FMA) north of 48°02'15" N. latitude (Norwegian Memorial) and east of 125°44'00" W. longitude	May 1 thru earlier of June 30 or chinook quota	All except coho	24	--	Barbless hooks, except that hooks used with bait and plugs may be barbed. No more than 8 fixed lines per boat, or no more than 4 hand-held lines per person.
	No earlier than July 1 thru earliest of September 30 or chinook or coho quota	All	24	16	
QUILEUTE - That portion of the FMA between 48°07'36" N. latitude (Sand Point) and 47°31'42" N. latitude (Queets River) east of 125°44'00" W. longitude	May 1 thru earlier of June 30 or chinook quota	All except coho	24	--	Barbless hooks, except that hooks used with bait and plugs may be barbed. No more than 8 fixed lines per boat.
	No earlier than July 1 thru earliest of September 30 or chinook or coho quota	All	24	16	
HOH - That portion of the FMA between 47°54'18" N. latitude (Quillayute River) and 47°21'00" N. latitude (Quinault River) east of 125°44'00" W. longitude	May 1 thru earlier of June 30 or chinook quota	All except coho	24	--	Barbless hooks, except that hooks used with bait and plugs may be barbed. No more than 8 fixed lines per boat.
	No earlier than July 1 thru earliest of September 30 or chinook or coho quota	All	24	16	
QUINAULT - That portion of the FMA between 47°40'06" N. latitude (Destruction Island) and 46°53'18" N. latitude (Point Chehalis) east of 125°44'00" W. longitude	May 1 thru earlier of June 30 or chinook quota	All except coho	24	--	Barbless hooks, except that hooks used with bait and plugs may be barbed. No more than 8 fixed lines per boat.
	No earlier than July 1 thru earliest of September 30 or chinook or coho quota	All	24	16	

B. SPECIAL REQUIREMENTS, RESTRICTIONS, AND EXCEPTIONS

1. All boundaries may be changed to include such other areas as may hereafter be authorized for that tribe's treaty fishery by a federal court.

2. Applicable lengths, in inches, for dressed, head-off salmon, are 18 inches for chinook and 12 inches for coho. Minimum size and retention limits for ceremonial and subsistence harvest are as follows:
Makah tribe: None.
Quileute, Hoh, and Quinault tribes: Not more than 2 chinook longer than 24 inches in total length may be retained per day. Chinook less than 24 inches total length may be retained.

3. The areas within a 6-mile radius of the mouths of the Queets River (47°31'42" N. latitude) and the Hoh River (47°45'12" N. latitude) will be closed to commercial fishing. A closure within 2 miles of the mouth of the Quinault River (47°21'00" N. latitude) may be enacted by the Quinault nation and/or the State of Washington and will not adversely affect the Secretary of Commerce's management regime.

BILLING CODE 3510-22-C

C. QUOTAS

1. The overall ocean quotas for the Washington coastal tribes are: 31,200 chinook and 90,000 coho salmon. These quotas include troll catches by the Klallam and Makah tribes in Washington State Statistical Area 4B from May 1 through September 30.

Gear Definitions and Restrictions

In addition to gear restrictions shown in Tables 1, 2, and 3, the following gear definitions and restrictions will be in effect.

Troll Fishing Gear

Troll fishing gear for the Fishery Management Area (FMA) is defined as one or more lines that drag hooks behind a moving fishing vessel.

In that portion of the FMA off Oregon and Washington, the line or lines must be affixed to the vessel and must not be disengaged from the vessel at any time during the fishing operation.

Recreational Fishing Gear

Recreational fishing gear for the FMA is defined as angling tackle consisting of a line with not more than one artificial lure or natural bait attached.

On that portion of the FMA off Oregon and Washington, the line must be attached to a rod and reel held by hand or closely attended; the rod and reel must be held by hand while playing a hooked fish. No person may use more than one rod and line while fishing off Oregon or Washington.

In that portion of the FMA off California, the line must be attached to a rod and reel held by hand or closely attended. Weights directly attached to a line may not exceed four (4) pounds. There is no limit to the number of lines that a person may use while recreationally fishing for salmon off California.

Geographical Landmarks

Wherever the words "nautical miles of shore" are used in this rule, the distance is measured from the baseline from which the territorial sea is measured.

Geographical landmarks referenced in this notice are at the following locations:

Umatilla-Tatoosh Line.	A straight line drawn southerly from the Cape Flattery light (48°23'50" N. latitude) to Umatilla Buoy (48°11'20" N. latitude).
Cape Alava	48°10'00" N. lat.
Queets River	47°31'42" N. lat.
South end of Destruction Island.	47°40'30" N. lat.
Leadbetter Point	46°38'10" N. lat.
North Head	46°18'00" N. lat.
Red Buoy Line	Seaward along the south jetty of the Columbia River to the visible tip of the jetty and then to Buoy #2SJ, then southwesterly to Buoy #4, continuing southwesterly to Buoy #2, and then to the Columbia River Buoy, then due west along 46°11'06" N. latitude.
Cape Falcon	45°46'00" N. lat.
Cascade Head	45°03'50" N. lat.
Cape Arago	43°18'20" N. lat.
Humbug Mountain	42°40'30" N. lat.
Sisters Rocks	42°35'45" N. lat.
Mack Arch	42°13'40" N. lat.
House Rock	42°06'32" N. lat.
Trinidad Head	41°03'30" N. lat.
Punta Gorda	40°15'30" N. lat.
Horse Mountain	40°05'00" N. lat.
Point Arena	38°57'30" N. lat.
Point Conception	34°27'00" N. lat.

Inseason Notice Procedures

Actual notice of inseason management actions will be provided by a telephone hotline administered by the Northwest Region, NMFS, 206–526–6667, and by U.S. Coast Guard Notice to Mariners broadcasts. These broadcasts are announced on Channel 16 VHF–FM and 2182 KHz at frequent intervals. The announcements designate the channel or frequency over which the Notice to Mariners will be immediately broadcast. Inseason actions will also be filed with the **Federal Register** as soon as practicable. Since provisions of these management measures may be altered by inseason actions, fishermen should monitor either the telephone hotline or Coast Guard broadcasts for current information for the area in which they are fishing.

Classification

The 1990 and specified 1991 management measures described above are based on the most recent data available. The aggregate data upon which the measures are based are available for public inspection at the offices of the Regional Directors (see **ADDRESSES**) during business hours until the end of the comment period.

These actions are taken under 50 CFR part 661, are in compliance with Executive Order 12291, and are covered by the Regulatory Flexibility Analysis (RFA) and Final Supplemental Environmental Impact Statement (SEIS) prepared for the framework FMP. These actions impose no information collection requirements under the Paperwork Reduction Act.

Section 661.23 of the ocean salmon regulations states that the Secretary will publish a notice establishing management measures each year and will invite public comments prior to its effective date. If the Secretary determines, for good cause, that a notice must be issued without affording a prior opportunity for public comment, comments on the notice will be received by the Secretary for a period of 15 days after the filing of the notice with the **Federal Register**.

Because of the depressed status of some salmon stocks, and the need to reduce harvest in some areas to prevent overfishing and achieve the FMP's spawning escapement goals, the Secretary has determined that time does not permit a comment period prior to the date the management measures must be in effect. Comments will be accepted for 15 days after the effective date of this notice.

The public has had opportunity to comment on these management measures during the process of their development. The public participated in the March and April Council, STT, and Salmon Advisory Subpanel meetings, and in public hearings held in Washington, Oregon, and California in late March and early April, which generated the management actions recommended by the Council and approved by the Secretary. Written public comments were invited by the Council between the March and April Council meetings.

Authority: 16 U.S.C. 1801 *et seq.*

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians.

Dated: May 1, 1990.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries.

[FR Doc. 90-10450 Filed 5-1-90; 4:24 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 55, No. 88
Monday, May 7, 1990

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

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 220

School Breakfast Program; Program Outreach

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule is intended to amend the School Breakfast Program regulations to require that State agencies: (1) Provide information to school boards and public officials concerning the benefits and availability of the program and (2) direct special informational efforts annually toward selected non-participating schools with a substantial low-income enrollment. This action is intended to promote program outreach to schools whose enrollment includes a substantial number of needy children. These enhanced informational efforts are mandated by the Child Nutrition and WIC Reauthorization Act of 1989.

DATES: To be assured of consideration, comments concerning this proposed rule must be postmarked on or before July 6, 1990.

ADDRESSES: Comments should be addressed to: Mr. Robert M. Eadie, Chief, Policy and Program Development Branch, Child Nutrition Division, USDA, 3101 Park Center Drive, room 515, Alexandria, Virginia 22302. All written submissions will be available for public inspection in room 515, 3101 Park Center Drive, Alexandria, Virginia, during regular business hours (8:30 a.m. to 5 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Eadie or Mr. Charles Heise at the above address or by telephone at (703) 756–3620.

SUPPLEMENTARY INFORMATION:

Classification

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

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 through 612). The Administrator of the Food and Nutrition Service has certified that this rule will not have a significant economic impact on a substantial number of small entities.

The School Breakfast Program is listed in the Catalog of Federal Domestic Assistance under No. 10.553 and is subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials (7 CFR part 3015, subpart V).

The School Breakfast Program data collection and recordkeeping requirements have been approved by OMB (OMB No. 0584–0012).

Background

The School Breakfast Program (SBP) was originally established by Congress in 1966 as a pilot program. First consideration for participation was to be given to "schools drawing attendance from areas in which poor economic conditions exist and to those schools to which a substantial proportion of the children enrolled must travel long distances daily", as stated in section 4(c) of the Child Nutrition act (CNA) of 1966, pursuant to Public Law 89–642, enacted October 11, 1966. In 1971, Congress extended the priority consideration for program expansion to those "schools in which there [was] a special need for improving the nutrition and dietary practices of children of working mothers and children from low-income families", pursuant to section 3(b) of Public Law 92–32, enacted June 30, 1971. Public Law 94–105, the National School Lunch Act and Child Nutrition Act of 1966 Amendments of 1975, enacted October 7, 1975, gave permanent authorization to the School Breakfast Program. Section 3 of Public Law 94–105 states: "As a national nutrition and health policy, it is the purpose and intent of the Congress that the School Breakfast Program be made available in all schools where it is needed to provide adequate nutrition for children in attendance."

To facilitate SBP expansion to schools with significant numbers of low-income children, Congress has, from the inception of the program, authorized additional financial assistance to schools determined by the States as qualifying for "severe need" assistance. Section 6(c) of the Child Nutrition Amendments of 1978, Public Law 95–627, enacted November 10, 1978, amended section 4(d) of the CNA to establish the present national criteria for "severe need" reimbursement, i.e., a minimum of 40 percent of the school's lunches served free or at a reduced price in the second preceding school year and program operational costs in excess of standard reimbursement rates.

Additionally, to promote program expansion and improve the nutritional quality of school breakfasts, Congress has raised SBP reimbursement rates twice in recent years. Section 4210(a) of the Child Nutrition Amendments of 1986, Public Law 99–661, enacted November 14, 1986, and, subsequently, section 210 of the Hunger Prevention Act of 1988, Public Law 100–435, enacted September 19, 1988, amended section 4(b) of the CNA to add a total of six cents per meal in supplementary funding to the annually adjusted reimbursement rates for each program breakfast. These enhancements appear to have contributed to an upward trend in school participation. Nevertheless, at the current time significantly less than half of the schools participating in the National School Lunch Program (NSLP) participate in the SBP. Nationwide, nearly 30,000 NSLP schools do not offer the SBP. Thus, the program is not available to a large number of children.

In view of the relatively low participation rate of schools in the SBP, Congress has expressed concern that the program may not be reaching a substantial number of needy children, particularly in economically depressed rural areas. Congress believes that the situation may be due to the fact that

local officials and school boards may not be sufficiently aware of the recently enhanced benefits of the program. To promote program outreach, section 121(2)(D) of the Child Nutrition and WIC Reauthorization Act of 1989, Public Law 101–147, enacted November 10, 1989, amended section 4(f) of the CNA to require the States to (1) provide information concerning the benefits and availability of the School Breakfast Program to local school boards and other public officials; and (2) select each year, for additional informational efforts, nonparticipating schools in which a substantial portion of the enrollment consists of children from low-income families. To make the language of this proposed rule consistent with the existing language of 7 CFR part 220, this rule would substitute the words "free or reduced-price meals" for the statute's reference to "children from low-income families" to indicate those eligible for program participation.

The Department considers that the individual States are in the best position to know the needs of their school populations and, thus, to establish their own criteria for targeting schools "in need of a breakfast program". Therefore, this rule does not propose to establish mandatory selection criteria. However, in light of Congressional concern that rural areas may not have sufficient access to the SBP, we recommend that States with a significant low-income rural population ensure that the schools enrolling these children are among those targeted for SBP outreach.

Accordingly, this rule would amend 7 CFR 220.13(l) to require that State educational agencies provide information to school boards and public officials concerning the benefits and availability of the School Breakfast Program and select each year, for additional informational efforts, nonparticipating schools in which a substantial portion of the enrollment is eligible for free or reduced-price meals. It should be noted that these requirements are dictated by Public Law 101–147, and the Department is exercising no discretion in imposing them. In regard to the proposed new program requirements as set forth under 7 CFR 220.13(l) (1) and (2) below, States and schools are invited to comment on whether the Department should set national guidelines for targeting local schools in need of the program instead of allowing each State to establish the appropriate criteria for targeting its schools in particular need of the SBP. In addition, comments are similarly solicited regarding which forms of State informational outreach and program assistance to local schools have proved most helpful and effective.

List of Subjects in 7 CFR Part 220

Food assistance programs, School Breakfast Program, Grant programs—social programs, Nutrition, Children, Reporting and recordkeeping requirements, Surplus agriculture commodities.

Accordingly, 7 CFR part 220 is proposed to be amended as follows:

PART 220—SCHOOL BREAKFAST PROGRAM

1. The authority citation for part 220 continues to read as follows:

Authority: Secs. 4 and 10 of the Child Nutrition Act of 1966, 80 Stat. 886, 889 as amended (42 U.S.C. 1773, 1779), unless otherwise noted.

2. In part 220.13, a new paragraph (l) is added to read as follows:

§ 220.13 Special responsibilities of State agencies.

* * * * *

(l) Each State agency, or FNSRO where applicable, shall:

(1) Provide information to school boards and public officials concerning the benefits and availability of the program; and

(2) Select each year, for additional informational efforts concerning the program, nonparticipating schools in which a substantial portion of the enrollment is eligible for free or reduced-price meals.

Dated: May 1, 1990.

George A. Braley,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 90–10560 Filed 5–4–90; 8:45 am]

BILLING CODE 3410–30–M

Agricultural Marketing Service

7 CFR Part 953

[Docket No. FV–90–157]

Irish Potatoes Grown In Southeastern States; Proposed Expenses and Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would authorize expenses and establish an assessment rate under Marketing Order 953 for the 1990–91 fiscal period. Authorization of this budget would allow the Southeastern Potato Committee to incur expenses reasonable and necessary to administer the program. Funds for this program would be derived from assessments on handlers.

DATES: Comments must be received by May 17, 1990.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2085–S, Washington, DC 20090–6456. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Kenneth G. Johnson, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456, telephone 202–447–5331.

SUPPLEMENTARY INFORMATION: This rule is proposed under Marketing Agreement No. 104 and Marketing Order No. 953 (7 CFR part 953), regulating the handling of Irish potatoes grown in Southeastern States (Virginia and North Carolina). The marketing 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 proposed 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 (AMS) has considered the economic impact of this proposed rule 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 approximately 60 handlers of Southeastern potatoes under this marketing order, and approximately 150 potato producers. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000.

The majority of the handlers and producers may be classified as small entities.

The budget of expenses for the 1990–91 fiscal year was prepared by the Southeastern Potato Committee (committee), the agency responsible for local administration of the marketing order, and submitted to the Department of Agriculture for approval. The members of the committee are handlers and producers of Southeastern potatoes. They are familiar with the committee's needs and with the costs for goods, services and personnel in their local area and are thus in a position to formulate an appropriate budget. The budget was formulated and discussed in a public meeting. Thus, all directly affected persons have had an opportunity to participate and provide input.

The assessment rate recommended by the committee was derived by dividing anticipated expenses by expected shipments of potatoes. Because that rate would be applied to actual shipments, it must be established at a rate which would produce sufficient income to pay the committee's expenses. A recommended budget and rate of assessment is usually acted upon by the committee before the new fiscal year starts, and expenses are incurred on a continuous basis. Therefore, budget and assesssment rate approval must be expedited so that the committee will have funds to pay its expenses.

The committee met on April 16, 1990, and unanimously recommended a 1990–91 budget of $11,000, the same as last year. Major expense items include committee staff salaries and travel expenses. The committee also unanimously recommended an assessment rate of $0.0075 per hundredweight. This year's assessment rate is $0.0025 less than last year's. The asessment rate, when applied to anticipated fresh market potato shipments of 500,000 hundredweight, would yield $3,750 in assessment revenue which, when added to $7,250 from the committee's authorized reserve fund, would be adequate to cover budgeted expenses.

While this proposed action would impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

This action should be expedited because the committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis. The 1990–91 fiscal period will begin in June, and the marketing order requires that the rate of assessment for the fiscal year apply to all assessable potatoes handled during the fiscal year. In addition, handlers are aware of this action which was recommended by the committee at a public meeting. Therefore, it is found and determined that a comment period of 10 days is appropriate because the budget and assessment rate approval for this program needs to be expedited.

List of Subjects in 7 CFR Part 953

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 953 be amended as follows:

PART 953—IRISH POTATOES GROWN IN SOUTHEASTERN STATES

1. The authority citation for 7 CFR part 953 continues to read as follows:

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

2. Section 953.247 is added to read as follows:

§ 953.247 Expenses and assessment rate.

Expenses of $11,000 by the Southeastern Potato Committee are authorized and an assessment rate of $0.0075 per hundredweight of potatoes is established for the fiscal period ending May 31, 1991. Unexpended funds may be carried over as a reserve.

Dated: May 1, 1990.

William J. Doyle,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90–10474 Filed 5–4–90; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90–ANE–08]

Airworthiness Directives; General Electric Company (GE) CF6–80A3 Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt an airworthiness directive (AD) that would require the inspection of engine aft mount upper and lower beams installed on certain GE CF6–80A3 engines. The proposed AD is needed to prevent engine aft mount failure which could result in engine separation.

DATES: Comments must be received on or before June 25, 1990.

ADDRESSES: Comments on the proposal may be mailed in duplicate to Federal Aviation Administration, New England Region, Office of the Assistant Chief Counsel, Attn: Rules Docket No. 90–ANE–08, 12 New England Executive Park, Burlington, Massachusetts 01803, or delivered in duplicate to Room 311 at the above address.

Comments must be marked: Docket No. 90–ANE–08.

Comments may be inspected at the above location in Room 311, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except federal holidays.

The applicable service bulletin may be obtained from General Electric Aircraft Engines, CF6 Distribution Clerk, Room 132, 111 Merchant Street, Cincinnati, Ohio 45246, or may be examined in the Regional Rules Docket.

FOR FURTHER INFORMATION CONTACT: Thomas Boudreau, Engine Certification Branch, ANE–142, Engine Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273–7096.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the FAA before any final action is taken on the proposed rule. The proposal contained in this notice may be changed in light of comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Regional Rules Docket, New England Region, Office of the Assistant Chief Counsel, Room 311, Burlington, Massachusetts 01803, for examination by interested persons. A report

summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: Comments to Docket No. 90–ANE–08. The postcard will be date/time stamped and returned to the commenter.

One GE CF6–80A3 engine aft mount lower beam has been found with a forging lap. The omission of a dip etch in the manufacturing process allowed the forging lap to go undetected during the final fluorescent penetrant inspection (FPI).

The FAA has determined that the required dip etch was omitted from the manufacturing process of all GE CF6–80A3 engine aft mount beam assemblies, this compromising the effectiveness of the final FPI. Consequently, forging laps may exist on other CF6–80A3 engine aft upper and lower mount beams which could result in cracking and subsequently lead to failure of an engine aft mount beam. Since this condition is likely to exist or develop on other engines of the same type design, the proposed AD would require the inspection of engine aft mount upper and lower beams on certain GE CF6–80A3 turbofan engines.

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

The FAA has determined that this proposed regulation involves 92 engines and the approximate cost would be $5000 per engine with an approximate total cost of $460,000. 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 of Airbus A310–200 aircraft in which GE CF6–80A3 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 draft 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, and Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration (FAA) proposes to amend 14 CFR 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):

General Electric Company: Applies to General Electric Company (GE) CF6–80A3 turbofan engines installed on, but not limited to Airbus A310–200 aircraft.

Compliance required at the next engine removal or within 18 months after the effective date of this AD, whichever occurs first, unless already accomplished.

To prevent failure of the engine aft mount, which could result in engine separation, accomplish the following:

(a) Conduct an "in shop" dip etch and fluorescent penetrant inspection of the engine aft upper mount beam, Part Number (P/N) 224–1606–501 or 224–1606–503, and engine aft lower mount beam, P/N 224–1607–501, in accordance with the accomplishment instructions contained in Part 2 of GE CF6–80A Series Service Bulletin (SB) 71–053, Revision 1, dated February 8, 1990.

(b) Remove from service prior to further flight, engine aft upper and lower mounts with crack indications.

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

Issued in Burlington, Massachusetts, on April 26, 1990.

Arthur J. Pidgeon,

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

[FR Doc. 90–10493 Filed 5–4–90; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 202, 206, 210, and 212

Revision of Geothermal Resources Valuation Regulations and Related Topics

May 1, 1990.

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of reopening the public comment period.

SUMMARY: The Minerals Management Service (MMS) hereby gives notice that it is reopening the public comment period on its proposed rulemaking to amend and clarify existing regulations defining the value for royalty purposes of geothermal resources produced from Federal lands administered by the Department of the Interior and the Department of Agriculture. The MMS is reopening the comment period for 30 days to obtain additional public comments on the rate of return applicable to capital investment and other issues.

DATES: Written comments must be received on or before June 6, 1900.

ADDRESSES: Written comments may be mailed to the Minerals Management Service, Royalty Management Program, Rules and Procedures Branch, Denver Federal Center, Building 85, P.O. Box 25166, Mail Stop 3910, Denver, Colorado 80225, Attention: Dennis C. Whitcomb.

FOR FURTHER INFORMATION CONTACT: Dennis C. Whitcomb, Chief, Rules and Procedures Branch, telephone (303) 231–3432 of (FTS) 326–3432.

SUPPLEMENTARY INFORMATION: The MMS published a Notice of Proposed Rulemaking on Revision of Geothermal Resources Valuation Regulations in the **Federal Register** on January 5, 1989 (54 FR 354). The original public comment period closed on April 17, 1989, after having been extended from March 6, 1989. The public is invited to provide additional comments on the issue described below:

Section 206.352 Valuation Standards for Electrical Generation

The proposed regulations provide for a netback procedure to be applied in valuing geothermal resources in situations where there was not an arm's-length sale of the geothermal resource and the resource was utilized in the generation of electricity. The netback procedure involves the subtraction from the sales value of the generated electricity of the costs incurred to generate and transmit the electricity. The resulting "net" value is used to define the value of the geothermal resource. A common concern regarding the netback calculation received in the public comments is the rate of return allowed on invested capital used in the determination of the transmission and generating deductions. A return on investment is provided to compensate the lessee for the cost of capital necessary to fund construction of the powerplant and transmission facilities. The rate of return specified in the proposed regulations for determining transmission and generating deductions is 1.5 times the Standard and Poor's BBB industrial bond rate.

During the comment period, many commenters disagreed with the proposed netback procedure but few commenters offered alternative rates of return for use in the netback procedure that they believed would adequately recognize the risks involved in developing geothermal projects. The Geothermal Resources Association objected to the netback procedure and recommended a "proportion of profits" approach. The netback and the proportion of profits approach, however, are mathematically identical except for the choice of the rate of return. The proportion of profits approach uses a rate of return based upon actual net income from a project while the proposed regulation would use the same rate for all projects.

In an effort to fully balance the concerns that the royalty valuation regulations should not work to impede further development of the resources while providing the public a fair value for the resource, MMS believes that it needs additional information before it can conclude its assessment of the alternative valuation methods presented in the proposed rulemaking. Therefore, MMS is specifically requesting additional comments on the rate or rates of return that are most appropriate for use in the netback procedure. Respondents should provide rationale for any recommended rate of return including references to public information or other sources that provide a factual basis for the recommendation.

In addition, if circumstances have arisen since the close of the comment period on April 17, 1989, which allow the respondent to give additional comments on any other issue called for in the first notice, MMS welcomes this new information. It is not necessary for commenters to resubmit previous comments since those comments already are included in the rulemaking record.

Dated: May 1, 1990.

Donald T. Sant,

Acting Associate Director for Royalty Management.

[FR Doc. 90-10504 Filed 5-4-90; 8:45 am]

BILLING CODE 4310-MR-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Family Support Administration

45 CFR Parts 233, 234 and 235

RIN 0970-AA75

Aid to Families With Dependent Children

AGENCY: Family Support Administration (FSA), HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: These proposed rules implement three sections of the Omnibus Budget Reconciliation Act (OBRA) of 1987, Public Law 100-203, that apply to the Aid to Families with Department Children (AFDC) program. They are: (1) *Section 9101*, which permanently extends the optional disregard of certain in-kind assistance in determining eligibility for and the amount of AFDC; (2) *section 9102*, which authorizes States to establish an optional fraud control program; and (3) *section 9133*, which provides that a child whose support and maintenance costs are covered in the foster care payment of his or her minor parent may not be regarded as a member of an AFDC family.

In addition, these proposed rules also implement section 1883 of the Tax Reform Act of 1986, Public Law 99-514, which requires that a recipient who receives foster care maintenance payments under title IV-E of the Social Security Act may not be regarded as a member of an AFDC family.

DATES: Comments must be received by July 6, 1990.

ADDRESSES: Comments should be submitted in writing to the Acting Assistant Secretary for Family Support, Attention: Mr. Mark Ragan Acting Director, Division of Policy, Office of Family Assistance, Fifth Floor, 370 L'Enfant Promenade, SW., Washington, DC 20447. Comments may be inspected between 8 a.m. and 4:30 p.m. during regular business days by making arrangements with the contract person identified below.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Ragan, Office of Family Assistance, Fifth Floor, 370 L'Enfant Promenade, SW., Washington, DC 20447, telephone (202) 252-5116.

SUPPLEMENTARY INFORMATION:

Discussion of Proposed Rule Provisions

Exclusion of a Foster Care Recipient

Section 1883(b)(10) of the Tax Reform Act of 1986, Public Law 99-514, added section 478 to title IV-E of the Social Security Act. Section 478 provides that a child with respect to whom foster care maintenance payments under title IV-E are made is not considered a member of an AFDC assistance unit and the child's income and resources are not counted in determining AFDC eligibility and payment amount. Accordingly, we are amending Federal regulations at §§ 233.20 (a)(1)(ii), 233.20 (a)(3)(vi), and 233.20 (a)(3)(x) to exclude the needs, income, and resources of such children from consideration under AFDC.

The exclusion of an individual under section 478 is limited only to a child who receives foster care maintenance payments as defined by section 475(4) and authorized by section 472 of title IV-E of the Social Security Act. The exclusion does not extend to individuals receiving payments under the Federal adoption assistance program as set forth in section 473 of title IV-E of the Act or to payments under State-only foster care or adoption assistance programs. Thus, there is no statutory basis for not applying section 402(a)(38) to these invididuals. However, States are permitted to apportion such grants or payments to the adult or child according to the designation of the grant. For example, States typically designate State-funded foster care payments to cover specific costs, such as food, clothing, shelter, school supplies, personal incidentals, or travel expenses for visitation. Any portion of the grant which is clearly designated for the foster parent and which is not used for the maintenance of the child is therefore not counted as income to the child. Moreover, any items attributable to the child which are not covered by the AFDC need standard may be disregarded under the complementary program rule at § 233.20(a)(3)(vii).

Section 1883 specified that this provision is effective October 1, 1984. In addition, language was included in section 1883(b)(10)(B) which holds the States harmless for any AFDC payments made to such individuals between October 1, 1984 and October 21, 1986.

Exclusion of a Child of a Foster Care Recipient

Section 9133 of OBRA 1987 provides that where a foster care child is a minor parent and lives together with his or her child in the same foster family home or child-care institution, the foster care maintenance payment paid on behalf of the minor parent must include an amount necessary to cover the maintenance and other costs for the well-being of the child. The Office of Human Development Services (OHDS) published these changes in OHDS Policy Announcement 88–01 dated July 6, 1988.

The law also provides that a child may not receive AFDC if he or she lives with a minor parent whose foster care maintenance payments covers the need of the child. States are now required to exclude from an AFDC assistance unit any child of a minor parent with respect to whom a title IV–E foster care maintenance payment is made, which covers the needs of the child and to disregard the need, income, and resources of this child in the determination of eligibility or payment amount to the AFDC family. Accordingly, we are amending regulations at § 223.20 to reflect these expanded benefits under title IV–E and the exclusion of these individuals and benefits from consideration under title IV–A.

Extension of Disregard

This proposed rule deletes the time limitation of the disregard in the existing rule at § 233.53. Specifically, the proposed rule will continue to permit States to disregard from income and resources, needs-based support and maintenance assistance furnished in-kind by a private non-profit organization; or in cash or in-kind by a supplier of home heating oil or gas, by an entity whose revenues are primarily derived on a rate-of-return basis regulated by a State or Federal government entity, or by a municipal utility providing home energy. The existing rule was based on prior law, which authorized an identical disregard that expired on September 30, 1987. Therefore, we are retaining the same definitions and State plan requirements as set forth in the current rule.

Optional AFDC Fraud Control Program

Current regulations at § 235.110 require States to establish and maintain (1) methods and criteria for identifying alleged fraud, and (2) procedures, developed in cooperation with the State's legal authorities, for referring suspected fraud cases to law enforcement officials. Since these activities are conducted for the proper and efficient administration of the AFDC program, they are subject to the regular 50 percent administrative cost matching rate.

Section 9102(a) of the Omnibus Budget Reconciliation Act of 1987 (Pub. L. 100–203), which adds a new section 416 to the Social Security Act (the Act), permits State agencies to establish and operate an optional fraud control program. Section 416 authorizes States to: (1) Impose disqualification penalties on an individual based on a determination of an intentional program violation(s) by a State administrative disqualification hearing or by a Federal or State Court; and (2) receive Federal matching at a 75 percent Federal reimbursement rate for costs directly attributed to the operation of a fraud control program.

Further, section 9102(b), which adds a new section 402(a)(40) to the Act, provides that a State agency electing the optional program must submit to the Department (with such revisions as may from time to time be necessary) a description and budget for this program and agree to operate it in full compliance with section 416 of the Act. The program description and an annual budget would be provided by a State as a State plan amendment. The Family Support Administration's Office of Financial Management issued financial reporting instructions pertaining to budget data in FSA–AT–88–19 on July 18, 1988.

The State agency electing to implement the optional fraud program is required by section 416(c) of the Act to proceed against any individual alleged to have committed an intentional program violation through a State agency administrative disqualification hearing or by referring the matter to the appropriate authorities for civil or criminal action in a Federal or State court. Furthermore, the State agency is required to coordinate its actions with any corresponding actions being taken against the individual under the Food Stamp program if the factual issues involved arise from the same or related circumstances.

An intentional program violation is defined at § 235.112(b) to be an action by an individual, for the purpose of establishing or maintaining the family's eligibility for AFDC or for increasing or preventing a reduction in the amount of the grant, that is (1) a false or misleading statement or misrepresentation, concealment, or withholding of facts, or (2) an act intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity. The requirements at § 235.112(b) implement section 416(c) of the Act.

Section 416(b) further provides that if an individual is found to have committed an intentional program violation by a State or Federal court or State administrative hearing, on the basis of a plea of guilty or nolo contendere, the State agency must disqualify the individual by removing his or her needs from the grant for the following periods: (1) A period of six (6) months upon the first occasion of any such offense, (2) for a period of twelve (12) months upon the second occasion of any such offense, and (3) permanently upon the third or a subsequent occasion of any such offense. In addition, the income and resources of the disqualified individual, but not his or her needs, must be considered in determining the remaining unit members' eligibility and amount of payment. These provisions are implemented by § 235.112(c).

Further, if the caretaker relative is disqualified, we believe that assistance to the other eligible family members should be provided in the form of protective payments. This would ensure that the assistance is properly applied to meet the remaining family members' needs. A new clause (ii) has been added to § 234.60(a)(12) to explain the use of protective payments in this regard.

In determining the appropriate disqualification penalty to apply, we are proposing that a State agency would count any intentional program violations found to have been committed by an individual while participating in the AFDC program as a resident of another State (§ 235.112(c)(3)). We believe that such a requirement will encourage applicants and recipients to accurately report their circumstances to the State agency and act as a deterrent to repeated program violations. Finally, the Food Stamp program holds individuals accountable for program violations committed in other States. Providing a similar requirement for the AFDC program would implement Congressional intent that "the procedures used to carry out the AFDC fraud control program * * * are expected to parallel those currently in use under the food stamp program" (H. Rep. No. 100–485, 100th Cong., 2d Sess., 814 (1988)). To implement this

requirement States will need to establish interstate agreements in order to share appropriate information.

Section 416(b) of the Act requires the Secretary to establish by regulation requirements for an administrative disqualification hearing process. In this connection, the House-Senate Conference Report states that "the procedures used to carry out the AFDC fraud control program, including the hearing process, are expected to parallel those currently in use under the food stamp program" (Ibid) (emphasis added). In view of the expression of legislative intent, the proposed rules are modeled on the Food Stamp procedures set forth at 7 CFR 237.16.

The proposed rule at § 235.113 contains the new AFDC procedures. Those which are derived from the Food Stamp regulations included in this section are: The State agency responsibilities in conducting such hearings [§ 235.113(a)], the notice and timeframe requirements afforded an individual [§ 235.113(b)(9)], the right of the individual to request a waiver from appearing at an administrative disqualification hearing [§ 235.113(d)], and consent agreements [§ 235.113(e)].

Section 416(f) of the Act requires a State agency to "provide all applicants for aid to families with dependent children * * * at the time of their application * * * with a written notice of the penalties for fraud * * *." Because Congress viewed prior notice to the penalty provisions as essential to the fraud control program and because all recipients are subject to the disqualification penalties, we believe that it is essential that a notice be provided to current recipients before the penalties may be applied to them. In order to minimize the administrative burden that this would entail, the proposed rule at § 235.112(d) provides that a State could provide the notice as late as a recipient's first redetermination following the date of the Department's approval of the State plan amendment implementing the fraud control program.

Section 403(a)(3)(C) of the Social Security Act, as added by section 9102(c) of the Omnibus Budget Reconciliation Act of 1987, provides that Federal financial participation is available for costs directly attributable to carrying out the fraud control program permitted under section 416, including the investigation, prosecution, and administrative hearing of fraudulent cases and any resultant collections. Section 235.112(g) implements this provision.

Further, § 235.112(g) provides that in processing claims for expenses under the fraud program, the State agency must adhere to the cost principles contained in OMB Circular No. A–87.

In addition, it provides that, pursuant to 45 CFR 205.150, the State agency is required to have an allocation plan that provides for allocating the costs of common activities that affect both the AFDC and Food Stamp programs. Costs for investigative staff activities at the enhanced 75 percent rate are allowed, provided that such staff bear the position title of "investigator" (or a similar designation) and their official position description describes tasks directly related to fraud investigations. When investigative services are provided by staff in components (either private or governmental) outside the State agency, the costs for such services must be adequately documented for proper claiming at the enhanced 75 percent rate.

With regard to funding for pre-eligibility verification measures, our interim final rule which was published in the **Federal Register** (54 FR 15944) on April 20, 1989 states that costs attributed to such measures will qualify for Federal matching as administrative costs at the 50 percent rate. However, if a State operates an optional fraud control program under section 416 of the Social Security Act, the proposed rule at § 235.112(g)(2) provides that a 75 percent matching rate may apply to the costs of verification measures performed by fraud unit personnel based upon a referral by an eligibility worker that an applicant may have committed an intentional program violation. Accordingly, the 75 percent matching rate is not available for those verification measures required to be performed by the eligibility worker prior to referral—i.e., verification of information provided by an applicant that is used to confirm his or her eligibility for AFDC and to confirm that such information is relevant in determining the amount of the assistance payment.

Regulatory Procedures

Executive Order 12291

These proposed rules have been reviewed under Executive Order 12291 and do not meet any of the criteria for a major regulation. Therefore, a regulatory impact analysis is not required because these regulations will not: (1) Have an annual effect on the economy of $100 million or more; (2) impose a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or georgaphic regions; or (3) result in significant adverse effects on competition, employment, investment, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export market.

Paperwork Reduction Act

This rule does not require any information collection activities and, therefore, no approvals are necessary under the Paperwork Reduction Act.

Regulatory Flexibility Act

The Regulatory Flexibility Act (Pub. L. 96–354) requires the Federal government to anticipate and reduce the impact of regulations and paperwork requirements on small businesses. The primary impact of these proposed rules is on State governments and individuals. Therefore, we certify that these rules, if promulgated, will not have a significant economic impact on a substantial number of small entities because they affect benefits to individuals and payments to States. Thus, a regulatory flexibility analysis is not required.

(Catalog of Federal Domestic Assistance Programs 13.780, Assistance Payments-Maintenance Assistance.)

List of Subjects

45 CFR Part 233

Aliens,
Grant programs—social programs,
Public assistance programs,
Reporting and recordkeeping requirements.

45 CFR Part 234

Grant programs—social programs,
Health care,
Public assistance programs,
Rent subsidies.

45 CFR Part 235

Aid to families with dependent children,
Fraud,
Grant programs—social programs,
Public assistance programs.

Dated: October 19, 1990.

Eunice S. Thomas,

Acting Assistant Secretary for Family Support.

Approved: January 16, 1990.

Louis W. Sullivan,

Secretary of Health and Human Services.

For the reasons set forth in the preamble, part 233 of chapter II, title 45, Code of Federal Regulations is proposed to be amended as set forth below:

PART 233—COVERAGE AND CONDITIONS OF ELIGIBILITY IN FINANCIAL ASSISTANCE PROGRAMS

1. The authority citation for part 233 is revised to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302), 49 Stat. 647 as amended; sections 9101 and 9133 of Pub. L. 100–203; and sections 1883 of Pub. L. 99–514.

2. Section 233.20 is amended by revising paragraphs (a)(1)(ii),

(a)(3)(vi)(A) and (a)(3)(x) to read as follows:

§ 233.20 [Amended]

(a) * * *

(1) * * *

(ii) Provide that individuals receiving SSI benefits under title XVI, and individuals with respect to whom Federal foster care payments are made under title IV–E for the period for which such benefits or payments are received, shall not be included in the AFDC assistance unit for purposes of determining need and the amount of the assistance payment. Under this requirement, "individuals receiving SSI benefits under title XVI" includes individuals receiving mandatory or optional State supplementary payments under section 1616(a) of the Act or under section 212 of Pub. L. 93–66, and "individuals with respect to whom Federal foster care payments are made under title IV–E" means a child with respect to whom Federal foster care maintenance payments under section 475(4)(A) of title IV–E of the Act are made, and a child whose costs in a foster family home or child-care institution are covered by the Federal foster care maintenance payments made with respect to his or her minor parent under section 475(4)(B) of title IV–E.

* * * * *

(3) * * *

(vi)(A) In family groups living together, income of the spouse is considered available for his spouse and income of a parent is considered available for children under 21, except as provided in paragraphs (a)(3)(xiv) and (a)(3)(xviii) of this section for AFDC. If a spouse or parent is a recipient of SSI benefits under title XVI, or is an individual with respect to whom Federal foster care payments are made under title IV–E, then, for the period for which such benefits or payments are received, his income and resources shall not be counted as income and resources available to the AFDC unit. For purposes of this exception, a "recipient of SSI benefits under title XVI" includes a spouse or parent receiving mandatory or optional State supplementary payments under section 1616(a) of the Act or under section 212 of Pub. L. 93–66 and an "individual with respect to whom Federal foster care payments are made under title IV–E" means a child with respect to whom Federal foster care maintenance payments are made under section 475(4)(A) of the Act, and a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments made with respect to his or her minor parent under section 475(4)(B) of the Act.

* * * * *

(x) Provide that the income and resources of individuals who are receiving SSI benefits under title XVI and individuals with respect to whom Federal foster care payments are made under title IV–E for the period for which such benefits or payments, are received, shall not be counted as income and resources of an assistance unit applying for or receiving assistance under title IV–A. Under this requirement, "individuals receiving SSI benefits under title XVI" includes individuals receiving mandatory or optional State supplementary payments under section 1616(a) of the Act or under section 212 of Pub. L. 93–66 and, "individuals with respect to whom Federal foster care payments are made under title IV–E" means a child with respect to whom Federal foster care maintenance payments are made under section 475(4)(A) of the Act, and a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments made with respect to his or her minor parent under section 475(4)(B) of the Act.

* * * * *

3. Section 233.53 is amended by revising paragraphs (a) and (c)(4) introductory text to read as follows:

§ 233.53 Support and maintenance assistance (including home energy assistance) in AFDC.

(a) *General.* At State option, certain support and maintenance assistance (including home energy assistance) may be excluded from income and resources.

* * * * *

(c) * * *

(4) Provide that the State may exclude from income and resources, support and maintenance assistance (as defined in paragraph (b) of this section) which the appropriate State agency certifies is based on need, if the assistance is furnished by:

* * * * *

Part 234 of Chapter II, title 45, Code of Federal Regulations is amended as set forth below:

PART 234—FINANCIAL ASSISTANCE TO INDIVIDUALS

1. Authority citations for part 234 continues to read as follows:

Authority: Sec. 1102, 49 Stat. 647; 42 U.S.C. 1302

2. Section 234.60(a)(12) is amended by redesignating it as § 234.60(a)(12)(i) and adding a new paragraph (a)(12)(ii) to read as follows:

§ 234.60 Protective, vendor and two party payments for dependent children.

(a) * * *

(12)(i) * * *

(ii) In cases where a caretaker relative is disqualified for an intentional program violation pursuant to § 235.112(c)(1)(i), the State plan must provide that when protective payments are made pursuant to § 234.60, only paragraph (a)(7) will be applicable. Under these circumstances, when protective payments are made, the entire payment will be made to the protective payee. However, if after making all reasonable efforts, the State agency is unable to locate an appropriate individual to whom protective payments can be made, the State may continue to make payments on behalf of the remaining members of the assistance unit to the disqualified caretaker relative. Provisions will be made for termination of protective payments when the disqualification period ends.

* * * * *

Part 235 of chapter II, title 45 of the Code of Federal Regulations, is amended as set forth below:

PART 235—[AMENDED]

1. The authority citation for part 235 is revised to read as follows:

Authority: Sec. 403, 416 of the Social Security Act [42 U.S.C. 603, 616).

2. New §§ 235.112 and 235.113 are added to read as follows:

§ 235.112 Optional AFDC Fraud Control Program.

(a) A State agency under title IV–A may elect to establish and operate a fraud control program pursuant to section 416 of the Act. A State agency electing this optional program is required to proceed against any individual member of a family applying for or receiving AFDC who it believes to have committed an intentional program violation as described in paragraph (b) of this section through a State administrative hearing or by referring the matter to the appropriate authorities for civil or criminal action in a State or Federal court. In proceeding against such an individual, the State agency must coordinate its actions with any corresponding actions being taken under the Food Stamp program where the factual issues arise from the same or related circumstances.

(b) An intentional program violation is an action by an individual, for the purpose of establishing or maintaining the family's eligibility for AFDC or for increasing or preventing a reduction in the amount of the grant, which is intentionally:

(1) A false or misleading statement or misrepresentation, concealment, or withholding of facts, or,

(2) Any act intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity.

(c) *Disqualification penalties.* (1) An

individual who, on the basis of a plea of guilty or nolo contendere or otherwise, is found to have committed an intentional program violation by a State administrative disqualification hearing pursuant to this section or by a State or Federal court will be treated in the following manner. The State agency shall not take the individual's needs into account when determining the assistance unit's need and amount of the assistance. Any resources and income of the disqualified individual will be considered available to the assistance unit. The individual's needs will not be taken into account for 6 months upon the first occasion of any such offense; 12 months upon the second occasion of any such offense; and permanently upon the third or a subsequent occasion of any such offense. If the individual is a caretaker relative, the State agency shall provide assistance for the other eligible members of the assistance unit in the form of protective payments in accordance with 45 CFR 234.60(a)(12)(ii).

(2) *Duration of the penalty.* Any period for which a disqualification penalty is imposed shall remain in effect, without possibility of an administrative stay, unless and until the finding upon which the penalty was based is subsequently reversed by a court of appropriate jurisdiction; but in no event shall the duration of the period for which such peanlty is imposed be subject to review.

(3) *Applicability of the penalty.* A penalty imposed on an individual by one IV–A State agency shall be used when determining the appropriate disqualification penalty for that individual by another IV–A State agency. Where an individual with a prior violation(s) moves from one State to another and has been found to have committed an intentional program violation(s), the State agency will impose the penalty based on the number of such violations committed in all States. A State shall establish interstate agreements with other States to share appropriate information. In cases where a disqualification penalty and other sanctions apply:

(i) The penalties in this section shall be in addition to, and cannot be substituted for any other penalties which may be imposed by law for the same offenses.

(ii) The penalties imposed under this optional program only affect the individual concerned and cannot substitute for other program sanctions (e.g., failure to participate in JOBS or to cooperate in obtaining child support).

(d) *Notice requirements.* The State agency must provide all applicants with a written notice of the penalties for fraud under this section at the time of application. Individuals who are recipients on the date of approval of the State plan amendment implementing this optional program must be provided a similar notice no later than the next redetermination for AFDC.

(e) *State plan requirements and budget information.* A State agency electing this optional program must submit to the Department (with such revisions as may from time to time be necessary):

(1) A description of its fraud control program,

(2) A budget for the program, and

(3) A written certification that it will operate its fraud control program in full compliance with section 416 of the Social Security Act.

(f) *Systems.* The requirements of 45 CFR part 95, subpart F that apply to enhanced funding systems costs are applicable to ADP systems costs related to the AFDC fraud control program.

(g) *Federal financial participation—*

(1) *Allowable costs.* Federal financial participation (FFP) is authorized at the 75 percent reimbursement rate to a State agency with an approved plan to establish and operate a fraud control program pursuant to section 416 of the Social Security Act. All costs must adhere to cost principles found at OMB Circular No. A–87 and to cost allocation provisions found at 45 CFR 205.150. FFP at the 75 percent reimbursement rate is limited to:

(i) Costs directly attributable to the prosecution, conduct of administrative disqualification hearings, and fraud collection activities that result therefrom;

(ii) Costs of ADP systems that are solely dedicated to the optional fraud control program; and

(iii) Costs for activities performed by investigative staff who are employed by or detailed to the IV–A single State agency provided that such staff bear the position title of investigator (or a similar designation) and work under an official position description that describes tasks directly related to fraud investigation. When services are provided by organizations (private or governmental) outside of the State IV–A agency, the IV–A agency must ensure that the costs of these services are adequately documented for proper claiming at the 75 percent Federal reimbursement rate.

(2) *Pre-eligibility fraud detection.* Verification measures to detect fraudulent applications will be matched at the normal 50 percent administrative rate. For States operating under an approved optional fraud control program pursuant to section 416 of the Social Security Act, a 75 percent matching rate may be available when:

(i) The verification measures are applied and performed by a fraud investigator on a case that has been referred by an eligibility worker (following completion of the applicable verification measures set forth in the state plan to implement § 235.111) because of a suspicion that the applicant may have committed an intentional program violation as defined in § 235.112(b); and

(ii) The referred case contains a thorough explanation, approved by a supervisor, of why the eligibility worker suspects the applicant of committing an intentional program violation.

(3) *Cost allocation.* Where common activities or efforts are undertaken in support of both the AFDC and Food Stamp programs, the cost allocation plan pursuant to 45 CFR 205.150 must provide for a distribution of these costs to both programs.

§ 235.113 Disqualification hearing procedures under optional AFDC fraud control.

(a) *Pre-hearing investigation requirement.* The State agency under title IV–A that has elected to establish and operate a fraud control program pursuant to section 416 of the Act must conduct an investigation of an allegation that an individual committed an intentional program violation.

(b) *Disqualification hearings.* (1) The State agency may consolidate an individual's fair hearing governed by § 205.10 with a disqualification hearing based on the same or related circumstances provided that the individual receives prior notice of the consolidation. Additionally, the State agency may designate the same hearing officer to preside at a consolidated hearing.

(2) The State agency may provide administrative disqualification hearings at the local level in some or all of its subdivisions with a right to appeal to a State agency level de novo hearing.

(3)(i) The State agency shall provide a written notice to the individual alleged to have committed the program violation at least 30 days prior to the date of the disqualification hearing.

(ii) The advance written notice to the individual shall include the following items:

(A) The date, time, and location of the hearing;

(B) The charge(s) against the individual;

(C) A summary of the evidence, and how and where the evidence can be examined;

(D) A warning that the individual's failure to appear will result in a decision by the hearing officer based solely on the information provided by the State agency at the hearing;

(E) A statement that the individual may request a postponement of the

hearing provided that such request is made to the State agency at least 10 days in advance of the scheduled hearing;

(F) A statement that the individual will have 10 days from the date of the scheduled hearing to present to the State agency good cause for failure to appear in order to receive a new hearing;

(G) A description of the penalties resulting from a determination that the individual had committed an intentional program violation and a statement of which penalty is applicable to the individual;

(H) A statement that the hearing does not preclude the State or Federal government from prosecuting the individual for an intentional program violation in a civil or criminal court action, or from collecting any overpayment;

(I) A listing of individuals or organizations that provide free legal representation to individuals alleged to have committed intentional program violations; and

(J) An explanation that the individual may waive his or her right to appear at an administrative disqualification hearing as provided in paragraph (d) of this section.

(4) The State agency will require the hearing officer to postpone the scheduled hearing at the individual's request provided that the request for postponement is made at least 10 days in advance of the date of the scheduled disqualification hearing. However, the hearing shall not be postponed for more than a total of 30 days and the State agency may limit the number of postponements to one.

(5) A hearing shall be conducted by an impartial official of the agency who has not had previous involvement in the case;

(6) Medical assessments shall be obtained at agency expense and made part of the record if the hearing officer considers it necessary;

(7) The individual, or his representative, shall have adequate opportunity to:

(i) Examine the contents of his case file, and all documents and records to be used by the agency at the hearing, at a reasonable time before the date of the hearing, and during the hearing;

(ii) Present his case himself or with the aid of an authorized representative;

(iii) Bring witnesses;

(iv) Establish all pertinent facts and circumstances;

(v) Advance any arguments without undue influence; and

(vi) Question or refute any testimony or evidence, including the opportunity to confront and cross-examine adverse witnesses.

(8) Decisions made by the hearing officer shall be based exclusively on evidence and other material introduced at the hearing. The transcript or recording of testimony, exhibits, or official reports introduced at the hearing, together with all papers and requests filed in the proceeding, and the decision of the hearing officer shall be made available to the individual or to his or her representative at a reasonable time and place; and

(9) Decisions by the hearing officer shall:

(i) In the event of an evidentiary hearing, consist of a decision memorandum summarizing the facts and identifying the regulations supporting the decision.

(ii) In the event of a State agency de novo hearing, specify the reasons for the decision and identify the supporting evidence and regulations.

(10) The State agency may not disqualify an individual until the hearing officer finds that the individual has committed an intentional program violation. This does not mean, however, that the State agency is precluded from discontinuing, terminating, suspending, or reducing assistance, or changing the manner or form of payment to a protective, vendor, or two-party payment for other reasons. For example, the State agency may have facts which substantiate that the unit failed to report a change in circumstances even though the State agency has not yet demonstrated that the failure to report was an intentional program violation.

(11) *Notification of the hearing decision.* If the hearing officer finds that the individual committed an intentional program violation, the State agency shall provide a written notice to the individual prior to disqualification. The notice shall inform the individual of the decision and the reason for the decision. In addition, the notice shall inform the individual of the date the disqualification penalty will take effect, the duration of the penalty, the amount of payment the unit will receive during the disqualification period, and whether the payment will be made in the form of a protective payment.

(12) If a hearing officer at a local level disqualification hearing determines that an individual committed an intentional program violation, the notice of the local level hearing decision shall in addition to the items described in paragraph (b)(11) of this section inform the individual of the right to appeal the decision to the State agency within 15 days of the date of the notice.

(c) *Waiver of the administrative disqualification hearing.* (1) Each State agency may establish procedures to allow an accused individual to waive his or her right to appear at an administrative disqualification hearing.

(2) For State agencies that elect the option of allowing individuals to waive their rights to appear at an administrative disqualification hearing the following procedures are required:

(i) The advance notice in paragraph (b)(3) of this section must include a statement that the individual may waive the right to appear at an administrative disqualification hearing.

(ii) This statement shall include, at a minimum:

(A) The date that the signed waiver must be received by the State agency and a signature block for the accused individual, along with a statement that the caretaker relative must also sign the waiver if the accused individual is not the caretaker relative, with an appropriately designated signature block;

(B) A statement of the accused individual's right to remain silent concerning the charge(s) and that anything said or signed by the individual concerning the charge(s) may be used against him or her in a court of law;

(C) The fact that waiver of the individual's right to appear at a disqualification hearing may result in a disqualification penalty and a reduction in the assistance payment for the appropriate period even if the accused individual does not admit to the facts as presented by the State agency; and

(D) An opportunity for the accused individual to specify whether or not he or she admits to the facts as presented by the State agency.

(3) When the individual waives his or her right to appear at a disqualification hearing, and the hearing officer finds that the individual committed an intentional program violation, then the State agency shall send a written notice of the disqualification penalty. The period of disqualification shall begin on the first day of the second month which follows the date of the notice.

(d) *Court actions on consent agreements.* (1) Each State agency may establish procedures to allow an accused individual to sign an agreement confirmed by a court in which he or she admits committing an intentional program violation.

(2) State agencies that allow an individual to sign such an agreement, shall follow these procedures:

(i) The State agency shall enter into an agreement with its Attorney General's Office or, where necessary, with county prosecutors which provides for advance written notification to the accused individual of the consequences of signing such an agreement. The written notification shall include, at a minimum:

(A) A statement for the accused

individual to sign that he or she understands the consequences of signing the agreement, along with a statement that the caretaker relative must also sign the agreement if the accused individual is not the caretaker relative.

(B) A statement that signing the agreement will result in a reduction in payment for the appropriate period.

(C) A statement of which disqualification period will be imposed as a result of the accused individual signing the agreement; and

(ii) After the court confirms the agreement the State agency shall provide a written notice to the individual which specifies the period of disqualification, the date the disqualification will take effect, and the amount of payment the unit will receive during the disqualification period and whether the payment will be made in the form of a protective payment. The period of disqualification shall begin on the first day of the month following the month in which the court confirms the agreement. However, if the court specifies the date for initiating the disqualification period, the State agency shall disqualify the accused individual in accordance with the court order.

[FR Doc. 90–10417 Filed 5–4–90; 8:45 am]
BILLING CODE 4150–04–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[CC Docket No. 90–219; FCC No. 90–144]

Routine Licensing of Large Networks of Small Antenna Earth Stations Operating in the 12/14 GHz Frequency Bands

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This notice proposes certain revisions and additions to part 25 of the FCC's rules governing the power limitations on very small aperture terminals (VSATs). A VSAT network consists of a large number of technically identical small fixed-satellite earth stations in that network through satellites operating in the 12/14 GHz frequency bands.

To avoid interference, particularly to users of adjacent fixed-satellites, the *VSAT Order*, 51 FR 15067 (April 22, 1986), established an equivalent isotropically radiated power (e.i.r.p.) density limit for digital VSAT inbound transmissions of +14.0 dBW/4 kHz and outbound transmissions of +6.0 dBW/4 kHz per carrier. The *Declaratory Order*, 2 FCC Rcd 2149 (1987), established an inbound uplink analog transmitter power density limit of −8.0 dBW/4 kHz with a bandwidth of 200 kHz into a 1.2 meter earth station antenna and a maximum outbound transmitted satellite carrier power density of +13.0 dBW/4 kHz. Typically, inbound transmissions entail the use of small remote earth stations transmitting into a larger hub earth station through a satellite. Outbound transmissions typically entail the use of a larger hub earth station transmitting to a smaller remote earth station through a satellite. Several applicants now wish to exceed these limits. This notice proposes to standardize and codify the technical showings applicants seeking high power operations must make. The FCC also seeks comment on whether the FCC should propose a general increase in power density limits.

DATES: Comments must be submitted on or before June 29, 1990 and reply comments must be submitted on or before July 30, 1990.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Wilbert E. Nixon, Jr. at (202) 634–1624.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking in the Matter of Routine Licensing of Large Networks of Small Antenna Earth Stations Operating in the 12/14 GHz Frequency Bands, Common Carrier Docket No. 90–219, FCC No. 90–144, adopted April 12, 1990 and released April 27, 1990.

The full text of this document is available for inspection and copying during normal business hours at the Public Reference Room at its headquarters, Room 239, 1919 M Street NW., Washington, DC 20554. The complete text of this decision may also be purchased from the FCC's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

The following collection of information contained in this proposed rule has been submitted to the Office of Management and Budget for review under Section 3504(h) of the Paperwork Reduction Act. Copies of the submission may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037. Persons wishing to comment on this information collection should direct their comments to Eyvette Flynn, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503. A copy of any comments should also be sent to the Federal Communications Commission, Office of Managing Director, Washington, DC 20554. For further information contact Jerry Cowden, Federal Communications Commission, (202) 632–7513.

OMB Number: None.

Title: Routine Licensing of Large Networks of Small Antenna Earth Stations Operating in the 12/14 GHz Frequency Bands.

Action: New collection.

Respondents: Businesses or other for-profit organizations (including small businesses).

Frequency of Response: On occasion.

Estimated Annual Burden: 10 responses; 1,000 hours total; 100 hours average burden per response.

Needs and Uses: The proposed rules will require applications seeking higher satellite carrier power density to provide a copy of their engineering analyses output, accompanied with a narrative summary and also proof of consent to potentially affected parties. Successful licensees will be required to obtain operational agreements from future adjacent licensees operating facilities at currently established power levels. The information requirements are proposed to spot potential interference problems.

Summary of Notice of Proposed Rulemaking

1. This notice proposes certain modifications to part 25 of the Commission's rules governing the power limitations on very small aperture terminals (VSATs). A VSAT network consists of a large number of technically identical small fixed-satellite earth stations that meet specified technical requirements and communicate only with other earth stations in that network through a satellite operating in the 12/14 GHz frequency band. The Commission has approved the operation of many VSAT networks in various network configurations. The most commonly used configuration is the star network configuration in which small remote earth stations communicate among themselves and their central headquarters through a large hub earth station.

2. In 1986, the Common Carrier Bureau ("Bureau") adopted technical standards for VSAT networks. In this initial *VSAT Order*, the Bureau established a maximum inbound digital uplink transmitter power density of −14.0 dBW/4 kHz into a typical 1.2 meter, parabolic earth station antenna with a gros bit rate of 512 kbps, and a maximum equivalent isotropically radiated power (e.i.r.p.) outbound transmitted satellite carrier density of

+6.0 dBW/4 kHz. In 1987, the Bureau established an inbound analog uplink transmitter power density limit of −8.0 dBW/4 kHz with a bandwidth of 200 kHz into a 1.2 meter earth station antenna and a maximum outbound transmitted satellite carrier power density of +13.0 dBW/4 kHz. Several applicants now wish to exceed the power density limits by varying amounts, up to ten times higher than currently licensed systems. In this order we propose to standardize and codify the technical showings applicants seeking high power operations must make. We also seek comment on whether the Commission should propose a general increase in power density limits.

3. Further, in order to maintain our application processing efficiency, we propose to modify the Commission's VSAT application processing procedures in the following manner. (*See* Proposed Rule § 25.134.) First, we propose to bifurcate the universe of possible VSAT applications. Each category will contain applications of facilities distinguished by their power densities. The first category will contain applications for digital and narrowband analog VSAT facilities with maximum outbound transmitted satellite carrier power densities of +6.0 dBW/4 kHz and +13.0 dBW/4 kHz, respectively, and maximum antenna input power densities of −14.0 dBW/4 kHz and −8.0 dBW/4 kHz, respectively, consistent with the *VSAT Order* and the *Declaratory Order*. These applications will continue to be processed routinely as specified in the *VSAT Order* and the *Declaratory Order*.

4. The second category will contain applications for digital and narrowband along VSAT facilities with transmitted satellite carrier power densities greater than +6.0 dBW/4 kHz and +13.0 dBW/4 kHz, respectively, and/or antenna input power densities greater than −14.0 dBW/4 kHz and −8.0 dBW/4 kHz, respectively. Applicants filing Category 2 applications will be required to conduct an engineering analysis based on the criteria employed in Appendix C of *Reduced Orbital Spacing*, 48 FR 40233 (September 6, 1983), *recon. in part*, 99 FCC 2d 737 (1985). The most straight-forward method of communicating the results of that analysis is through the use of the Sharp Adjacent Satellite Interference Analysis (ASIA) program. Summaries of the Sharp ASIA program's output or its equivalent detailing potential interference shortfalls will be required to accompany every Category 2 application. A narrative summary also must accompany the Category 2 application. This summary must indicate whether there are margin shortfalls in any of the current baseline services as a result of the addition of the new applicant's high power service, and if so, how the applicant intends to resolve those margin shortfalls. Category 2 applicants will be required to provide proof that all potentially affected parties consent to the use of the applicant's higher power density. In this regard, we request comment on the range of potentially affected parties. At a minimum, domestically, a co-channel, co-polarized carrier transmitted on an adjacent satellite 2° away would potentially be affected by higher power operations. Commenters may give their views on whether co-channel, co-polarized operations 4°, 6° or more degrees away would fall within the definition. Finally, under our proposal, successful Category 2 licensees will bear the burden of obtaining operational agreements from potentially affected parties who are licensed in the future and who operate their facilities at the Category 1 level.

Conclusion

5. We believe this proposal best balances the desires of those who wish to operate lower cost VSAT networks against the need to prevent harmful interference from occurring among the operating domestic satellites. Our obligation in this regard is to minimize interference conflicts. Thus, we will relax power restrictions in individual cases if commenters demonstrate that it is possible to do so without increasing interference to unacceptable levels among U.S. operators. Under our proposal, Category 2 applicants seeking densities in excess of currently prescribed limits will be required to comply with new § 25.134(b) of the rules. However, we also seek comment on whether we should propose a general increase in power limits.

Administrative Matters

6. Pursuant to the procedures set out in § 1.415 of the Commission rules, 47 CFR 1.415, interested parties may file comments on or before June 29, 1990 and replay comments on or before July 30, 1990. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information is placed in the public file and provided that the fact of the Commission's reliance on such information is noted in its *Report and Order*.

7. In accordance with provisions of § 1.419, formal participants shall file an original and five copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy of their comments, provided only that the docket number is specified in the heading. All comments are given the same consideration, regardless of the number of copies submitted. Comments and reply comments should be sent to: Office of the Secretary, Federal Communications Commission, Washington, DC 20554. All documents will be available for public inspection during regular business hours at the Commission's Public Reference Room at its headquarters, at Room 239, 1919 M Street NW., Washington, DC 20554. For general information on how to file comments, please contact the FCC Consumer Assistance and Information Division at (202) 632–7000.

Ex Parte Presentations

8. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* presentations are permitted except during the Sunshine Agenda period. *See generally* § 1.1206(a). The Sunshine Agenda period is the period of time which commences with the release of a public notice that a matter has been placed on the Sunshine Agenda and terminates when the Commission (1) releases the text of a decision or order in the matter; (2) issues a public notice stating that the matter has been deleted from the Sunshine Agenda; or (3) issues a public notice stating that the matter has been returned to the staff for further consideration, whichever occurs first. Section 1.1202(f). During the Sunshine Agenda period, no presentations, *ex parte* or otherwise, are permitted unless specifically requested by Commission or staff for the clarification or adduction of evidence or the resolution of issues in the proceeding. Section 1.1203. In general, an *ex parte* presentation is any presentation directed to the merits or outcome of the proceeding made to decision-making personnel which (1), if written, is not served on the parties to the proceeding, or (2), if oral, is made without advance notice to the parties to the proceeding and without opportunity for them to be present. Section 1.1202(b). Any person who submits a written *ex parte* presentation must provide on the same day it is submitted a copy in

duplicate of same to the Commission's Secretary for inclusion in the public record. Any person who makes an oral *ex parte* presentation that presents data or arguments not already reflected in that person's previously-filed written comments, memoranda, or filings in the proceeding must provide on the day of the oral presentation a written memorandum in duplicate to the Secretary (with a copy to the Commissioner or staff member involved) which summarizes the data and arguments. Each *ex parte* presentation described above must be clearly labelled "ex parte," state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. Section 1.1206.

9. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and has been found to impose a new or modified information collection requirement on the public. Implementation of any new or modified requirement will be subject to approval by the Office of Management and Budget as prescribed by the Act.

10. We have determined that section 605(b) of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) does not apply to this rulemaking proceeding because if promulgated, it will not have a significant economic impact on a substantial number of small entities.

11. Accordingly, pursuant to the authority contained in sections 1, 4(i), 4(j), and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 303, and section 553 of the Administrative Procedure Act, 5 U.S.C. 553, we hereby give Notice of our proposals to adopt the rule revisions as set forth herein. The Secretary shall also cause a summary of the Notice of Proposed Rulemaking to appear in the **Federal Register**.

List of Subjects in 47 CFR Part 25

Satellites.

Donna R. Searcy,

Secretary.

Part 25 of the Commission's Rules and Regulations (chapter I of title 47 of the Code of Federal Regulations) is proposed to be amended as follows:

PART 25—SATELLITE COMMUNICATIONS

1. The authority citation for part 25 continues to read as follows:

Authority: Sections 25.101 through 25.531 issued under sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply secs. 101–404, 76 Stat. 419–427; 47 U.S.C. 701–744.

2. A new § 25.134 is proposed to be added to read as follows:

§ 25.134 Licensing provisions of very small aperture terminal (VSAT) networks.

(a) All applications for digital VSAT networks with maximum outbound downlink power densities of +6.0 dBW/4 kHz per carrier and maximum antenna input power densities of −14 dBW/4 kHz shall be processed routinely pursuant to *VSAT Order*. (Declaratory Order in the Matter of Routine Licensing of Large Networks of Small Antenna Earth Stations Operating in the 12/14 GHz Frequency Bands, 51 FR 15067 (April 22, 1986).) All applications for analog VSAT networks with maximum outbound downlink power densities of +13.0 dBW/4 kHz per carrier and maximum antenna input power densities of −8.0 dBW/4 kHz shall be processed routinely in accordance with the *Declaratory Order*. (Declaratory Order in the Matter of Routine Licensing of Earth Stations in the 6 GHz Bands and 14 GHz Using Antennas Less than 9 Meters and 5 Meters in Diameter, Respectively, for Both Full Transponder and Narrowband Transmission, 2 FCC Rcd 2149 (1987).)

(b) Each applicant for digital and/or analog VSAT network authorization proposing to use transmitted satellite carrier power densities in excess of +6.0 dBW/4 kHz per carrier and +13.0 dBW/4 kHz, respectively, and/or maximum antenna input power densities of −14.0 dBW/4 kHz and −8.0 dBW/4 kHz, respectively, shall conduct an engineering analysis comparable to the Sharp, Adjacent Satellite Interference Analysis (ASIA) program. Applicants shall submit tabular summaries of the ASIA program's output or its equivalent detailing potential interference shortfalls. Applicants shall also submit a narrative summary which must indicate whether there are margin shortfalls in any of the current baseline services as a result of the addition of the new applicant's high power service, and if so, how the applicant intends to resolve those margin shortfalls. Applicants shall provide proof by affidavit that all potentially affected parties consent to the use of the applicant's higher power density. Successful licensees shall obtain operational agreements from future licensees that are potentially affected and operating facilities at power levels in accordance with the *VSAT Order* and the *Declaratory Order*.

[FR Doc. 90–10495 Filed 5–4–90; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL COMMUNICATION COMMISSION

47 CFR Part 65

[Common Carrier Docket No. 87–313]

Policy and Rules Concerning Rates for Dominant Carriers

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of time.

SUMMARY: The action extends by ten days the due dates for price cap comments and replies. The action is taken in conjunction with the grant of a six day extension of time for the filing of comments in CC Docket 89–624; it allows parties to coordinate their filings in this proceeding with their filings in CC Docket 89–624.

DATES: Comments are due May 7, 1990. Replies are due June 8, 1990.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20054.

FOR FURTHER INFORMATION CONTACT: Mary Brown (202) 632–5550.

SUPPLEMENTARY INFORMATION:

Background

Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No. 87–313, Notice of Proposed Rulemaking, 2 FCC Rcd 5208 (1987), 52 FR 33962, September 9, 1987.

Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No. 87–313, Further Notice of Proposed Rulemaking, 3 FCC Rcd 3195 (1988), 53 FR 22356, June 15, 1988.

Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No. 87–313, Report and Order and Second Further Notice of Proposed Rulemaking, 4 FCC Rcd 2873 (1989), 54 FR 19846, May 8, 1989.

Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No. 87–313, Supplemental Notice of Proposed Rulemaking, released March 12, 1990, 55 FR 12526, April 4, 1990.

Summary of Order

This is a summary of the Commission's Order in Policy and Rules Concerning Rates for Dominant Carriers, CC Docket 87–313, and Represcribing the Authorized Rate of Return for Interstate Services of Local Exchange Carriers, CC Docket No. 89–624, DA 90–569 (adopted April 10, 1990; released April 11, 1990.)

The full text of this Commission decision is available for inspection and

copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision will be published in the FCC Record and may also be purchased from the Commission's copy contractor, International Transcription Services, (202) 857–3800, 2100 M Street NW, suite 140, Washington, DC 20037.

1. On March 30, 1990, a group of parties (Joint Parties) filed a joint petition seeking a 30-day extension of the April 27, 1990 filing date for comments on the Supplemental Notice of Proposed Rulemaking in CC Docket 87–313 (the price caps proceeding). The petition was opposed by the United States Telephone Association, Pacific Bell and Nevada Bell, and Southwestern Bell Telephone Company.

2. It is the policy of the Commission that extensions of time shall not be routinely granted.[1] However, in light of the significant issues in these proceedings and the volume of the staff studies and underlying data in the appendices which were offered for comment in the Supplemental Notice, we believe that a limited extension of time is appropriate. To allow parties to coordinate their price caps filings with the price caps-related filings in CC Docket 89–624 (the rate of return represcription proceeding), we also, on our own motion, extend the scheduled filing dates in CC Docket 89–624 to permit such coordination.

3. The pleading schedules in CC Dockets 87–313 and 89–624 shall now be as follows:

February 2, 1990: Notices of appearance
February 16, 1990: Initial carrier submissions
March 27, 1990: Responsive submissions
April 17, 1990: Carrier rebuttal submissions
April 17, 1990: Notices of appearance
May 7, 1990: Supplemental submissions (89–624) Price cap comments (87–313)
May 21, 1990: Replies to supplemental submissions (89–624)
June 8, 1990: Price cap replies (87–313)
July 2, 1990: Proposed findings and conclusions (89–624)
July 16, 1990: Reply findings and conclusions (89–624)

4. Accordingly, *It Is Ordered That* the schedule of pleadings in the captioned proceedings *Are Amended* as specified.

List of Subjects

47 CFR part 65.

Communications common carriers, rate of return.

[1] 47 CFR 1.46(a).

Federal Communications Commission.
Richard M. Firestone,
Chief, Common Carrier Bureau.

[FR Doc. 90–10498 Filed 5–4–90; 8:45 am]
BILLING CODE 6712–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 65

[Common Carrier Docket No. 89–624]

Represcribing the Authorized Rate of Return for the Interstate Services of Local Exchange Carriers

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; establishment of reviewed pleading schedule.

SUMMARY: The action extends by six days the due dates for each of following pleadings in the rate of return for interstate services of local exchange carriers represcription proceeding: supplemental submissions, replies to supplemental submissions, proposed findings and conclusions; reply findings and conclusions. The action is taken in conjunction with the grant of a ten day extension of time for the filing of comments in CC Docket 87–313 (policy and rules concerning rates for dominant carriers or "price caps" rule); it allows parties to coordinate their filings in this proceeding with their filings in CC Docket 87–313.

DATES: Supplemental submissions are due May 7, 1990. Replies to supplemental submissions are due May 21, 1990. Proposed findings and conclusions are due July 2, 1990. Reply findings and conclusions are due July 16, 1990.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Jane Jackson, Telephone (202) 632–7500.

SUPPLEMENTARY INFORMATION:

Background

Refinement of Procedures and Methodologies for Represcribing Interstate Rates of Return for AT&T and Local Exchange Carriers, CC No. Docket 87–463, and Represcribing the Authorized Rate of Return for Interstate Services of Local Exchange Carriers, CC Docket No. 89–624; 5 FCC Rcd 197 (1989), 55 FR 4820 (1990).

Refinement of Procedures and Methodologies for Represcribing Interstate Rates of Return for AT&T and Local Exchange Carriers, CC No. Docket 87–463, and Represcribing the Authorized Rate of Return for Interstate Services of Local Exchange Carriers, CC Docket No. 89–624, 55 FR 10788 (March 23, 1990). Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No. 87–313, Supplemental Notice of Proposed Rulemaking, released March 12, 1990, 55 FR 12526, April 4, 1990.

Summary of Order

This is a summary of the Commission's *Order* in Policy and Rules Concerning Rates for Dominant Carriers, CC Docket 87–313, and Represcribing the Authorized Rate of Return for Interstate Services of Local Exchange Carriers, CC Docket No. 89–624, DA 90–569 (adopted April 10, 1990; released April 11, 1990.)

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision will be published in the *FCC Record* and may also be purchased from the Commission's copy contractor, International Transcription Services, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

1. On March 30, 1990, a group of parties (Joint Parties) filed a joint petition seeking a 30-day extension of the April 27, 1990, filing date for comments on the Supplemental Notice of Proposed Rulemaking in CC Docket 87–313 (the price caps proceeding). The petition was opposed by the United States Telephone Association (USTA), Pacific Bell, Nevada Bell, and Southwestern Bell Telephone Company.

2. It is the policy of the Commission that extensions of time shall not be routinely granted.[1] However, in light of the significant issues in these proceedings and the volume of the staff studies and underlying data in the appendices which were offered for comment in the Supplemental Notice, we believe that a limited extension of time is appropriate. To allow parties to coordinate their price caps filings with the price caps-related filings in CC Docket 89–624 (the rate of return represcription proceeding), we also, on our own motion, extend the scheduled filing dates in CC Docket 89–624 to permit such coordination.

3. The pleading schedules in CC Dockets 87–313 and 89–624 shall now be as follows:

February 2, 1990 Notices of appearance
February 16, 1990 Initial carrier submissions

[1] 47 CFR 1.46(a).

March 27, 1990 Responsive submissions
April 17, 1990 Carrier rebuttal submissions
April 17, 1990 Notices of appearance
May 7, 1990 Supplemental submissions (89–624)
Price cap comments (87–313)
May 21, 1990 Replies to supplemental submissions (89–624)
June 8, 1990 Price cap replies (87–313)
July 2, 1990 Proposed findings and conclusions (89–624)
July 16, 1990 Reply findings and conclusions (89–624

4. Accordingly, *it is ordered* That the schedule of pleadings in the captioned proceedings *are amended* as specified.

List of Subjects in 47 CFR Part 65

Communications common carriers, Rate of return.

Federal Communications Commission.

Richard Firestone,

Chief, Common Carrier Bureau.

[FR Doc. 90–10499 Filed 5–4–90; 8:45 am]

BILLING CODE 6712–01–M

Notices

Federal Register
Vol. 55, No. 88
Monday, May 7, 1990

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

Working Group on Model Rules; Notice of Public Meetings

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Working Group on Model Rules of the Administrative Conference of the United States. The committee will meet as part of an ongoing effort to develop model rules of practice and procedure which can be used by Federal agencies in formal adjudications.

DATES: Monday, June 18, 1990.

TIME: 12 noon.

LOCATION: Administrative Conference of the United States Library, 2120 L Street, NW., Suite 500, Washington, DC.

CONTACT: Gary J. Edles or Jeffrey Lubbers, (202) 254–7020.

PUBLIC PARTICIPATION: Attendance at the committee meeting is open to the public, but limited to the space available. Persons wishing to attend should notify the contact person at least two days in advance of the meeting. The committee chairman may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with a committee before, during, or after a meeting. Minutes of the meeting will be available upon request.

Dated: April 30, 1990.

Jeffrey S. Lubbers,

Research Director.

[FR Doc. 90–10444 Filed 5–4–89; 8:45 am]

BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Forest Service

Shasta-Trinity National Forests, CA, Penney Ridge Fire Salvage and Resource Recovery Project; Exemption of Decision From Administrative Appeal

AGENCY: Forest Service, USDA.

ACTION: Exemption of Decision from Administrative Appeal, Penney Ridge Fire Salvage and Recovery Project.

SUMMARY: During the fire season of 1988, an extensive area on the Yolla Bolla Ranger District of the Shasta-Trinity National Forests in California, was burned by wildfire and now needs restoration. Proposed restoration consists of rehabilitation of National Forest System Lands (NFSL) damaged by the wildfire and the recovery of dead and dying timber which is still merchantable. Any further delay in the activities necessary to restore these damaged lands or remove this salvageable timber will result in unacceptable degradation of the physical and biological condition of NFSL and a substantial deterioration of the fire-damaged timber. Further delays will also significantly increase the risk of severe forest insect and pest infestation of the already damaged, as well as the intermingled and adjacent, undamaged trees.

The Forest Supervisor has determined through an environmental analysis, which is documented in the Penny Ridge Fire Salvage and Resource Recovery Project Final Environmental Impact Statement (FEIS), that there is good cause to expedite this project. Expediting this project is necessary for the prompt rehabilitation of the NFSL, and for the recovery of dead and dying timber resulting from the Hermit Fire on the South Fork Trinity River drainage on the Shasta-Trinity National Forests. The FEIS, which documents the expected environmental effects of the action, also documents extensive public involvement and addresses issues raised by the public.

Due to the length of time it has taken to develop an acceptable restoration and rehabilitation program and to properly evaluate its effects, the time remaining for program accomplishment has become critical. Additional delay would result in further damage to resources, and could result in a complete loss of the salvageable timber resource.

Pursuant to 36 CFR 217.4(a)(11), it is my decision to exempt from appeal the decision for the Penney Ridge Fire Salvage and Resource Recovery FEIS. The decision to rehabilitate Shasta-Trinity NFSL and offer salvage timber for sale in the Penney Ridge Project Area will not be subject to administrative appeal and review.

EFFECTIVE DATE: This decision is effective May 7, 1990.

FOR FURTHER INFORMATION CONTACT: Questions about this decision should be addressed to Ed Whitmore, Timber Management Staff Director, Pacific Southwest Region USDA Forest Service, 620 Sansome Street, San Francisco, CA 94111, (415) 705–2648, or to Robert Ramirez, District Ranger, Yolla Bolla Ranger District, Shasta-Trinity National Forests, Platina, Ca 96076, (916) 352–4211.

ADDITIONAL INFORMATION: The Hermit Fire burned approximately 7,705 acres of public and private land within the South Fork Trinity River drainage, including an estimated 2,587 acres within the Yolla Bolla-Middle Eel Wilderness Area, and an estimated 320 acres of private land. A large portion of the recovery area is located within the released Penney Ridge roadless area. The section of the South Fork Trinity River, which flows through the recovery area, is eligible for nomination as a component of the National Wild and Scenic Rivers System, and implementation of the Preferred Alternative would not detract from the river's eligibility for consideration. An estimated 23.0 million board feet (MMBF) of salvageable timber, on an estimated 1,820 acres of NFSL, is proposed for harvest under the Preferred Alternative for the Penney Ridge FEIS.

These lands need to be promptly rehabilitated, with timber killed or damaged beyond recovery expeditiously removed.

On October 28, 1988, the Shasta-Trinity Forest Supervisor published a Notice of Intent to Prepare an Environmental Impact Statement (EIS) for a proposal to rehabilitate burned NFSL, and to recover timber killed or damaged beyond recovery by the Hermit Fire of 1988. Scoping was conducted by the Shasta-Trinity

National Forests, pursuant to 40 CFR 1501.7, to determine the issues to be addressed, and for identifying the significant issues related to the Hermit Fire Recovery Project proposal. A public meeting was held on November 7, 1988 in Hayfork, California. The public meeting was attended by people representing a range of individual opinions, environmental concerns, and timber industry concerns. The information from this meeting, and the scoping process that followed, is documented in the FEIS and associated planning records. These documents are located at the Yolla Bolla Ranger District Office in Platina, California.

The Shasta-Trinity National Forests analyzed the effects of eight rehabilitation and recovery alternatives on the Penney Ridge Fire Salvage and Resource Recovery Project area. In compliance with the National Environmental Policy Act, the analysis for this proposal was documented in the Penney Ridge Draft Environmental Impact Statement (DEIS), which was issued for public review on December 1, 1989. The Notice of Availability for the DEIS was published in the **Federal Register** on December 1, 1989. The Record of Decision for the FEIS will be issued in mid to late May 1990.

The analysis for this exemption is documented in the appendix of the Penney Ridge Fire Salvage and Resource Recovery Project FEIS, and is also located in the Penney Ridge Planning record files. These documents are available at the Yolla Bolla Ranger District Office.

The analysis of the rate of deterioration of the dead and damaged timber indicates that approximately 7.5 MMBF, with an estimated stumpage value of $780,000, would be lost to insects and decay as result of delay required to resolve an administrative appeal. This would result in an estimated loss of $85,000 to county governments which share in the twenty-five percent of National Forest receipts. Trinity County would incur the majority of the loss, an estimated $75,000. Watershed and fisheries habitat restortation activites, scheduled for the 1990 field season, would also be delayed, resulting in further resource impact. Additionally, the reforestation of an estimated 1,684 acres of suitable lands would be delayed at least another year, further reducing the opportunity for successful reforestation.

Dated: April 30, 1990.

Lawrence Bembry,

Deputy Regional Forester.

[FR Doc. 90–10503 Filed 5–4–90; 8:45 am]

BILLING CODE 3410–11–M

Meeting; The Ouachita National Forest, Le Flore County, OK, Multiple Use Advisory Council

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of the second meeting of The Ouachita National Forest, Le Flore County, Oklahoma, Multiple Use Advisory Council. The meeting will be open to the public. This notice also describes the functions of the Council. Notice of this meeting is required under the National Advisory Committee Act.

DATES: May 22, 1990, 7 p.m.

ADDRESSES: The meeting location is Bob Lee Kidd Civic Center, Highway 271 North, Poteau, Oklahoma. Send written statements to Forest Supervisor, Ouachita National Forest, P.O. Box 1270, Hot Springs, AR 71902.

FOR FURTHER INFORMATION CONTACT: Gary Pierson, (501)–321–5281.

SUPPLEMENTARY INFORMATION: The Ouachita National Forest, in Le Flore County, Oklahoma, Multiple Use Advisory Council was created by the Winding Stair Mountain National Recreation and Wilderness Area Act (16 U.S.C. 460vv–13). The Council, comprised of 20 members, appointed by the Secretary of Agriculture September 25, 1989, will meet periodically. The purpose of this Council is advisory in nature. The Council shall provide information and recommendations to the Secretary regarding the operation of the Ouachita National Forest in Le Flore County. The Council is composed of representatives from the local area in which the Ouachita National Forest is located, equally divided among conservation, timber, fish and wildlife, tourism and recreation, and economic development interests.

Mike Curran, Supervisor of the Ouachita National Forest will chair the meeting. Representatives of the Forest Service will attend from the Department of Agriculture including the designated officer of the Federal Government. The agenda for this meeting will be to: Review proposed trail locations in the Beech Creek Area and various wildlife proposals. Statements from the public will be heard.

Dated: April 26, 1990.

John M. Curran,

Forest Supervisor.

[FR Doc. 90–10574 Filed 5–4–90; 8:45 am]

BILLING CODE 3410–11–M

Availability of Financial Analysis Handbook

AGENCY: Forest Service, USDA.

ACTION: Notice of availability.

SUMMARY: the Forest Service gives notice that it has issued a new Financial Analysis Handbook (FSH 6509.18). The handbook provides instructions to qualified agency accountants to use in reviewing financial, cost, and related data provided by timber sale purchasers, concessionaires, contractors, and other external entities when a showing of financial ability is necessary prior award of contracts or permits. The handbook has been issued as an interim directive and expires September 12, 1991. The public may inspect the handbook at Forest Service District, Forest, Regional, Station, and Area Offices (listed at 36 CFR part 200).

EFFECTIVE DATE: This handbook was effective March 12, 1990.

FOR FURTHER INFORMATION CONTACT: William Helmer, Fiscal and Public Safety Staff, Forest Service USDA (703) 235–8466.

Dated: April 20, 1990.

Charles R. Hartgraves,

Associate Deputy Chief.

[FR Doc. 90–10564 Filed 5–4–90; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 16–90]

Proposed Foreign-Trade Zone; Moses Lake, Washington Application and Public Hearing

An application has been submitted to the Foreign-Trade Zones Board (the Board) pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400), by the Port of Moses Lake Public Corporation (PMLPC), a Washington public corporation, requesting authority to establish a general-purpose foreign-trade zone in Moses Lake, Washington. PMLPC is an affiliate of the Port of Moses Lake (PML), a municipal corporation of the State of Washington. PML, which owns and operates the Grant County Airport, has an application pending with the U.S. Customs Service requesting designation of the Grant County Airport at Moses Lake, Washington, as a user fee airport facility under Customs regulations. The application was formally filed on April

24, 1990. The applicant is authorized to make this proposal under § 24.46.020 of the Revised Code of the State of Washington.

The proposed foreign-trade zone (316 acres) would be located at the Columbia Basin Commerce Park within the Grant County Airport complex in Moses Lake, the former Larson Air Force Base. The application has designated Vanley Systems, Inc., to develop the zone and Commerce Park, which is owned by the PML.

The application contains evidence that the availability of zone services is needed in the Moses Lake area to help the community utilize its airport for international trade related activity. Several firms have indicated an interest in using zone procedures for warehousing/distribution of such items as finished garments, chemicals, furniture, aircraft parts and electronic components. Specific manufacturing approvals are not being sought at this time. Requests would be made to the Board on a case-by case-basis.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr., Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Daniel C. Holland, District Director, U.S. Customs Service, Pacific Region, 909 First Avenue, room 2039, Seattle, Washington 98174; and Colonel Milton Hunter, District Engineer, U.S. Army Engineer District Seattle, P.O. Box C–3755, Seattle, Washington 98124–2255.

As part of its investigation the examiners committee will hold a public hearing on May 24, 1990, beginning at 10 a.m. in room 2A, Terminal Building, Grant County Airport, Moses Lake, Washington.

Interested parties are invited to present their views at the hearing. Persons wishing to testify should notfiy the Board's Executive Secretary in writing at the address below or by phone (202/377–2862) by May 17, 1990. Instead of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the examiners committee, care of the Executive Secretary at any time from the date of this notice through June 25, 1990.

A copy of the application and accompanying exhibits will be available during this time for public inspection at the following locations:

Port of Moses Lake, Grant County Airport Terminal Bldg., Moses Lake, Washington, 98837.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, room 2835, 14th and Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: April 27, 1990.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 90–10454 Filed 5–4–90; 8:45 am]

BILLING CODE 3510–DS–M

International Trade Administration

[A–475–084]

Final Results of Antidumping Duty Administrative Review; Spun Acrylic Yarn From Italy

AGENCY: International Trade Administration, Import Administration, Commerce.

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

SUMMARY: On December 29, 1989, the Department of Commerce ("the Department") published the preliminary results of its administrative review of the antidumping duty order on spun acrylic yarn from Italy (54 FR 53671). The review covers five manufacturers/exporters of this merchandise to the United States and the periods April 1, 1987, through March 31, 1988, and April 1, 1988, through March 31, 1939.

We gave interested parties an opportunity to comment on the preliminary results. We received comments from the petitioner and one respondent. Based on our analysis of the comments received, the final results of the reviews are the same as those presented in the preliminary results of review.

EFFECTIVE DATE: May 7, 1990.

FOR FURTHER INFORMATION CONTACT: David J. Goldberger or Bradford Ward, Office of Antidumping Investigations, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–4136 or (202) 377–5288, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 29, 1989, the Department of Commerce ("the Department") published in the **Federal Register** (54 FR 53671) the preliminary results of its administrative review of the antidumping duty order on spun acrylic yarn from Italy (45 FR 23684, April 8, 1980). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930, as amended ("the Act").

Scope of the 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 comsumption on or after that date is now classified solely according to the appropriate HTS item number.

Imports covered by this review are shipments of worsted spun acrylic plied yarn for machine knitting, excluding four-ply craft yarn and certain brushed yarns. During the review period, such merchandise was classifiable under items 310.5015 and 310.5049 of the Tariff Schedules of the United States Annotated ("TSUSA"). This merchandise is currently classifiable under the Harmonized Tariff Schedule ("HTS") item 5509.3200. The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers five manufacturers/exporters of spun acrylic yarn from Italy and the periods April 1, 1987, through March 31, 1988, and April 1, 1988, through March 31, 1989. These five firms are Gruppo Bertrand, International Fibre Industries, Ltd. (IFI), Manifacttura Emmepi S.p.A. (Emmepi), Mister Joe S.p.A., and Turriddo Torracchi. Of these companies, only one manufacturer/exporter with shipments during both periods, IFI, responded adequately and in a timely fashion to our requests for information.

With respect to the other firms, Turriddo Torracchi did not respond to our questionnaires and the Department has learned that the company no longer exists. Mister Joe's responses to the Department's questionnaires were inadequate, lacking any information for making sales comparisions. Emmepi's response for the period April 1, 1987, through March 31, 1988, was submitted seven months late and thus was determined to be untimely (see also Comment 2 below). Consequently, the Department used the best information available for these three firms for the periods in question. As best information available, we used the rate published in the antidumping duty order (45 FR 23684), April 8, 1980). Gruppo Bertrand (a.k.a. Fantasis, Cofisa and Saberfil) reported no shipments during either of the review periods, as did Emmepi for the April 1, 1988, through March 31, 1989,

period. We are using the rates from the last review in which there were shipments for those companies during these periods.

Fair Market Value Comparisons

The methodology used for calculating United States price and foreign market value for IFI, the only respondent whose response we were able to use, was fully described in our notice of preliminary results. As stated in that notice, IFI purchases the raw material for spun acrylic yarn and contracts with an unrelated party, Lanificio di Nervesa della Battaglia S.p.A., to process this material into the finished subject merchandise, which IFI itself either imports into the United States or exports to third countries. For purposes of this review, we are treating IFI as a respondent and are using its prices and costs as the basis for establishing foreign market value, in keeping with our practice in past administrative reviews of this antidumping duty order

We note, however, that in investigations initiated subsequent to this proceeding which involved similar "tolling" arrangements, the Department has considered the processor to be the appropriate respondent (*see*, for example *Certain Small Diameter Welded Carbon Steel Pipes and Tubes from the Philippines* (51 FR 33099, September 18, 1986)). The Department is, therefore, reviewing its policy for selecting respondents in proceedings involving tolling operations. Our treatment of IFI as the respondent in this review should not be construed as a determination to follow this practice in either future reviews or in new investigations.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received comments from the petitioner and one respondent.

Analysis of Comments Received

Comment 1: Petitioner requests that the Department obtain further information from respondents to ensure that all sales of the subject merchandise were reported for this review. Because of discrepancies between the sales volumes reported by the respondents for the two review periods and the import volumes recorded in the Census Bureau's import statistics, petitioner is concerned that respondents may have interpreted the scope to exclude certain blended yarns, or that not all sales have been reported. To ensure compliance with the antidumping duty order, petitioner requests that the highest rate in the antidumping duty order be applied to shipments of the subject merchandise covered by the reviews but not reported to the Department.

DOC Position: We verified the completeness of IFI's reporting prior to publishing our preliminary results and found no discrepancies. We have not received any information from the U.S. Customs Service to indicate that the respondents have failed to report accurately their shipments of the subject merchandise. As is often the case in antidumping proceedings, the specific merchandise encompassed by the scope of this proceeding does not coincide exactly with tariff schedule categories. Because the tariff schedule numbers covering the subject merchandise also include non-subject merchandise, as well as the possibility of statistical errors, we do not believe petitioner's concern requires further action. As stated below, future shipments from the respondents, including those who reported no shipments during the review period, will be subject to the rates contained in this notice.

Comment 2: Emmepi contends that the Department should revise its preliminary results for the 1987–88 period and use its questionnaire response in arriving at the final results for this review.

DOC Position: At Emmepi's request, we extended the deadline for submission of this questionnaire response until September 8, 1988. In our letter notifying Emmepi of the extension, we advised that "any undue delays or lack of response will result in our proceeding with appraisements based on the best information available." Emmepi did not submit its questionnaire response until April 5, 1989, seven months after the deadline. In accordance with the regulations then in effect at 19 CFR 353.46, we advised Emmepi in our letter of May 8, 1989 that its response was untimely submitted and would not be considered in our review. These circumstances have not changed. Consequently, we cannot accept Emmepi's questionnaire response and have based its margin on the rate in the antidumping duty order, as stated above, as best information available.

Final Results of the Review

As a result of our review of the comments received, we have determined that the following margins exist for the periods April 1, 1987 through March 31, 1988, and April 1, 1988 through March 31, 1989.

Manufacturer/Exporter	Period	Margin (percent)
Manifattura Emmepi S.p.A	04/01/87–03/31/88	48.05
	04/01/88–03/31/89	[1] 48.05
Gruppo Bertrand (a.k.a. Fantasia, Cofisa, and Saberfil)	04/01/87–03/31/88	[1] 14.06
	04/01/88–03/31/89	[1] 14.06
Lanificio di Nervesa della Battaglia S.p.A./ International Fibre Industries, Ltd	04/01/87–03/31/88	0.01
	04/01/88–03/31/89	0.69
Turriddo Torracchi	04/01/87–03/31/88	48.05
	04/01/88–03/31/89	48.05
Mister Joe, S.p.A	04/01/87–03/31/88	48.05
	04/01/88–03/31/89	48.05

[1] No shipments reported during the period; margin is from the last review in which there were shipments.

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

Further, as provided by section 751(a)(1) of the Act, a cash deposit of estimated antidumping duties based on the above margins shall be required. For shipments from the remaining known manufacturers and exporters not covered by this review, the cash deposit will continue to be at the latest rate applicable for each of those firms (47 FR 5280, February 4, 1982; 48 FR 37682, August 19, 1983; and, 50 FR 35849, September 4, 1985).

For any future entries of this merchandise from a new exporter, not covered in this or a prior administrative review, whose first shipments occurred after March 31, 1989, and who is unrelated to any reviewed firm, or any previously reviewed firm, a cash deposit of 0.69 percent shall be required. These deposit requirements are effective for all shipments of Italian spun acrylic yarn entered, or withdrawn from warehouse, for consumption on or aftter the date of publication of this notice and shall remain in effect until the publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1)

of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: April 30, 1990.

Lisa B. Barry,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-10455 Filed 5-4-90; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration Commerce

Export Trade Certificate of Review

ACTION: Notice of Issuance of an Export Trade Certificate of Review, Application No. 90-00002.

SUMMARY: The Department of Commerce has issued an Export Trade Certificate of Review to Non-Ferrous Founders' Society ("NFFS"). This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: Douglas J. Aller, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR part 325 (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the **Federal Register**. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

Export Trade

1. Products

Any non-ferrous (e.g., aluminum, brass, bronze, copper, magnesium, pewter or zinc) casting, whether finish machined or unfinished.

2. Services

Engineering, design, and other services related to Products and related manufacturing processes; licensing of Technology Rights concerning Products or processes; and product testing or certification to standard or specifications.

3. Technology Rights

Patents; trademarks; service marks; trade names; copyrights; trade secrets; know-how, including technology and expertise; and semiconductor mask works.

4. Export Trade Facilitation Services (as they relate to the export of Products, Services, and Technology Rights)

Consulting; international market research, marketing, and trade promotion; trade show participation; insurance; legal assistance; customs requirements compliance; communication and processing of sales leads, inquiries and export orders; information concerning financing and foreign exchange; warehousing; transportation, trade documentation and freight forwarding; liaison with agencies of the U.S. Government and of foreign governments, with trade associations and banking institutions; and taking title to goods.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Members (in addition to applicant): "A" Brass Foundry; A&B Foundry, Inc.; Acme Brass & Aluminum Foundry; Acra-Cast Foundries, Inc.; Active Brass Foundry; Advance Bronze, Inc.; Albco Foundry & Machine, Inc.; Alumalloy Metalcasting Company; American Bronze Corporation; American Crucible Products Co.; Armstrong Mold Corporation; Arth Brass & Aluminum Castings, Inc.; Atlas Founders, Inc.; Aurora Industries, Inc.; Bailsco Blades & Castings, Inc.; Barry Bronze Bearing Company; Beckett Bronze Company; Bergen Point Brass Foundry; Berntsen Brass & Aluminum, Inc.; Brass Foundry Company; Bridesburg Foundry Company; Brontel/Bearing Bronze Company; The Bronze Craft Corporation; Brost Foundry Company; Bushings, Inc.; Caldwell & Ward Brass Company; California Casting Inc.; Cannon Bronze Corporation; Century Brass Works, Inc.; Chicago Aluminum Castings Company, Inc.; D.W. Clark & Company; The Cleveland Aluminum Casting Co.; Colonial Foundries, Inc.; Colonial Metals; Continental Aluminum & Bronze Foundry; Crescent Brass Manufacturing Corp.; Crown Foundry Div./W. Phila. Bronze; Cyprus Warrenton Refining Company; Danville Brass & Aluminum; Dent Manufacturing, Inc.; EBW (Enterprise Brass Works); Ensley Tool Company; Erie Bronze and Aluminum Company; Falcon Foundry Company; Faunt Foundry Company; Federal Bronze Products; The Federal Metal Company; Fitz Brass & Aluminum Foundry, Inc.; Flury Foundry Company; Frontier Foundries, Inc.; G-M Brass & Aluminum Foundries, Inc.; Gettysburg Foundry Specialties Co.; H&H Casting, Inc.; Hegedus Aluminum Industries, Inc.; Hi-Star Casting Company, Inc.; Illini Foundry Co.; Imperial Cantrell Mfg.; Jefferson Bronze & Aluminum Company; Johnson Brass & Machine Foundry, Inc.; James Jones Company; Karbo Bronze Foundries Enterprises, Inc.; King Bronze Foundry Company; Kloppenborg Foundry & Fan Co.; The Knapp Corporation; H. Kramer & Company; Kunkle Foundry Company Inc.; L.D. Max Aluminum, Inc.; Lacy-Pennsylvania Bronze & Company; Lake Shore Foundry, Inc.; Lasalle Foundry & Machine Company; R. Lavin & Sons, Inc.; Lee Brass Company; Leitelt Brothers, Inc.; Los Angles Brass Products Inc.; Martin Brass Foundry; Meloon Foundries, Inc.; Louis Meskan Foundry; Metal Dynamics Corporation; Midwest Bronze & Aluminum; J. Walter Miller Company; Model Pattern and Foundry Company; Morgan Bronze Products, Inc.; The Multi-Cast Corporation; New England Union Co., Inc.; Non-Ferrous Cast Alloys, Inc.; Non-Ferrous Casting Co.; Oakes Foundry, Inc.; Oberdorfer Foundries, Inc.; Phillips Foundry, Inc.; Pontiac Foundry, Inc.; Precision Enterprises; R&D Pattern and Foundry Co., Inc.; Racine Aluminum & Brass Foundry, Inc.; Radial Casting Corporation; Richmond Industries; Robison Aluminum Works; Roth Brothers Smelting Company; Sall-Eclipse, Inc.; Schill Corporation; I. Schumann & Company; Sheidow Bronze Corporation; Sipi Metals Corporation; Southern Aluminum & Brass Foundry Inc.; Southern Casting Company; Superior Brass & Aluminum Casting Co.; SW Centrifugal, Inc.—Southern Div.; SW Centrifugal, Inc.—Wisconsin Div.; Robert E. Taylor and Son, Inc.; Tri-State Aluminum Casting Company, Inc.; Trialco, Inc.; Tru-Cast, Inc.; Unexcelled Casting Corporation; Universal Electric Foundry; Vermont Foundry Div./ Mahoney Foundries; Warwick Aluminum Company; Washington Iron Works, Inc.; Watertown Investment Inc.; Western Reserve Mfg. Co., Inc.; The Wilton Company; Wolff & Dungey, Inc.; Wolverine Bronze Co.; Wyrwas Aluminum Foundry, Inc.

Export Trade Activities and Methods of Operation

To engage in export Trade in the Export Markets, NFFS and its Members may:

1. Engage in joint bidding or other joint selling arrangements for the sale of Products and Services in Export Markets, and allocating sales resulting from such arrangements.

2. Establish prices for sales of Products and Services by the Members in Export Markets, with each Member free to deviate from such prices by whatever amount it sees fit.

3. Refuse to quote prices for, or to market or sell, Products and Services in Export Markets.

4. Solicit non-Member Suppliers (a) to sell their Products and Services or (b) to offer their Export Trade Facilitation Services, through the certified activities of NFFS and its Members.

5. License Technology Rights in Export Markets in conjunction with the export sale of Products and Services or otherwise, provided that in each case the terms of such license shall be determined solely by negotiations between the licensing Member and the export customer without coordination with NFFS or any of its Members.

6. Engage in joint promotional activities, such as advertising and trade shows, to develop existing or new Export Markets.

7. Discuss and agree on engineering and other technical Product and Service requirements of specific export customers or Export Markets as well as how to fullfill such requirements.

8. Enter into agreements to act in certain Export Markets as exclusive or non-exclusive Export Intermediaries for Products and Services. In an exclusive arrangement, (i) NFFS or the Member acting as the Export Intermediary may agree not to represent any other Supplier in the relevant market, and (ii) the Members represented by the Export Intermediary may agree that they will sell in the relevant Export Market only through it and that they will not export to the relevant market, either directly or through any other Export Intermediary. When acting as an exclusive Export Intermediary, NFFS and its Members shall not unreasonably refuse to supply its services on non-discriminatory terms to those Members that are parties to the arrangement.

9. Exchange and discuss the following:

a. Information about sales and marketing efforts, activities, selling strategies, pricing, terms and conditions of sale, competitive Products and Services, and prices thereof, available for sale in particular Export Markets, customer specifications, and international standards in Export Markets;

b. Information about export prices, quality, quantity, sources and delivery dates of Products available from Members for export. Discussions as to quantity, source, and delivery dates shall be on a transaction-by-transaction basis and involve only those Members participating or having a genuine interest in participating in each such transaction;

c. Information about terms, conditions and specifications of particular contracts for sales in Export Markets that NFFS and its Members may consider or bid for;

d. Information about joint bidding, selling, or servicing agreements, and allocations of sales resulting from such arrangements among the Members;

e. Information about legislation and regulations, either current or pending, in the U.S. and in other countries affecting export sales;

f. Information about expenses specific to exporting to and within Export Markets, including, without limitation, transportation, intermodal shipments, insurance, inland freight to port, port storage, commissions, export sales documentation, financing, customs, duties, and taxes; and

g. Information about the export operations of NFFS or its Members, including, without limitation, sales and distribution networks established by NFFS or its Members in Export Markets, and prior export prices and sales by NFFS and the Members.

10. Provide Export Trade Facilitation Services to non-Member Suppliers, either directly or through agreements with other Members or third parties.

11. Forward to the appropriate Member any request from a foreign government or its agent (including private pre-shipment inspection firms) for information concerning that Member's domestic or export activities (such as prices and costs). If it elects to respond, such Member shall respond directly to the requesting foreign government or its agent.

12. Meet to engage in the Export Trade, Export Trade Activities and Methods of Operation certified herein.

Definitions

1. "Export Intermediary" means a person who acts as a distributor, sales representative, sales or marketing agent, consultant, provider of professional services, or broker for the sale of Products and Services in Export Markets, or who performs similar functions, including providing or arranging for the provision of Export Trade Facilitation Services.

2. "Supplier" means a person who produces, provides, or sells a Product, Service, Technology Right, or Export Trade Facilitiation Service.

3. "Member" means a person who has membership in NFFS and who has been certified as a "member" within the meaning of § 325.2(1) of the Regulations.

4. "Non-Member" means a person other than a Member.

A copy of the Certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

Dated: May 1, 1990.

Douglas J. Aller,

Director, Office of Export Trading Company Affairs.

[FR Doc. 90-10453 Filed 5-4-90; 8:45 am]

BILLING CODE 3510-DR-M

National Oceanic and Atmospheric Administration

Western Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council's Plan Monitoring Teams (PMTs) for the Pelagics fisheries and for the Bottomfish/Seamount Groundfish fisheries and holding separate public meetings on May 7–8, and on May 9–10, 1990, at the National Marine Fisheries Service, Honolulu Laboratory, conference room, 2570 Dole Street, Honolulu, HI.

The *Pelagics PMT* meeting begins at 9 a.m., on May 7 to report on size and frequency projects, and to prepare the 1989 annual report, including evaluation of fisheries performance of data and indicators and items for inclusion in the "Synopsis and Summary." On May 8 the meeting will reconvene at 10 a.m.

The *Bottomfish and Seamount Groundfish PMT* meeting begins at 9 a.m., on May 9 to prepare the 1989 annual report. The PMT will draft the overfishing fishery management plan amendment, discuss application of definitions, results, and progress on the draft amendment. Data needs also will be discussed, i.e. identification of the most critical needs, as well as presentation of data needs for the bottomfish fishery. On May 10 the meeting will reconvene at 9 a.m.

Other business may also be discussed. For more information contact Kitty M.

Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1405, Honolulu, HI 96813; telephone: (803 523–1368.

Dated: May 3, 1990.

David S. Crestin,

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

[FR Doc. 90–10692 Filed 5–3–90; 2:30 pm]

BILLING CODE 3510-22-M

Marine Mammals Permit Modifications; Theater of the Sea (P92 and P92B), Dolphin Research Center (P53B), Dolphins Plus, Inc. (P234 and P234A), and Hyatt Regency Waikoloa Resort (P407)

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Special Conditions on Swim-with-the-dolphin Programs that apply to public display permit Nos. 69 and 326 issued to Theater of the Sea, Inc., Islamorada, FL, No. 514 issued to Dolphin Research Center, Marathon, FL, Nos. 292 and 577 issued to Dolphins Plus, Inc., Key Largo, FL, and No. 625 issued to Hyatt Regency Waikoloa Resort, Wiokoloa, HA are modified by changing the expiration date of the authorizations from April 30, 1990 to June 30, 1990. Special Condition D.1. now reads as follows:

D.1. The Permit Holder is authorized to use dolphins in an experimental human/dolphin swim program until June 30, 1990. The National Marine Fisheries Service (NMFS) may revoke this authority before June 30, 1990, if this program is found to have an adverse effect on the health or well-being of the animals, if an ongoing review of public display permit authorities, procedures and criteria results in new regulations that disallow such programs, or if the terms of the following conditions are not being met.

On April 27, 1990, according to Procedures for Issuance of Permits and Modification, Suspension or Revocation Thereof, contained in 50 CFR 216.33(d), the permit holders were notified of our intention to modify these permits and given the opportunity to request a hearing within 10 days of notification. No hearings were requested and this modification became effective on May 1, 1990.

NMFS is completing a final Environmental Impact Statement (EIS) on The Use of Marine Mammals in Swim-With-The-Dolphin Programs. A decision on the future of these programs is expected shortly and may involve further modification of permit authorities.

Documents concerning the above modifications and permits, and other information regarding swim-with-the-dolphin programs, are available for inspection in the Office of Protected Resources and Habitat Programs, NMFS, Room 7324, 1335 East-West Highway, Silver Spring, Maryland.

Dated: May 1, 1990.

Nancy Foster,

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

[FR Doc. 90–10476 Filed 5–4–90; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board Meeting

April 27, 1990

The USAF Scientific Advisory Board Ad Hoc Committee Summer Study on Technology Options and Concepts for Defeating Enemy Air Defense will meet on 22–23 May 90 from 8:00 AM to 5:00 PM at the Aerospace Corp., Building A–5, 2350 E. El Sequndo Blvd., El Segundo, CA 90245–4691.

The purpose of this meeting will be to receive briefings relevant to Technology Options and Concepts for Defeating Enemy Air Defenses. This meeting will involve discussions of classified defense matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 90–10500 Filed 5–4–90; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board Meeting

April 27, 1990

The USAF Scientific Advisory Board Ad Hoc Committee Summer Study on Technology Options and Concepts for Defeating Enemy Air Defense will meet on 22–23 May 90 from 8:00 AM to 5:00 PM at E-Systems Inc., 6250 LBJ Freeway, Dallas, TX 75240.

The purpose of this meeting will be to receive briefings relevant to Technology Options and Concepts for Defeating Enemy Air Defenses. This meeting will involve discussions of classified defense matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 90–10501 Filed 5–4–90; 8:45 am]

BILLING CODE 3910-01-M

Department of the Navy

Notice of Additional Public Hearings for Draft Environmental Impact Statement for Operation of Electromagnetic Pulse Radiation Environment Simulator for Ships (EMPRESS II) in Gulf of Mexico

Pursuant to Council on Environmental Quality regulations (40 CFR 1500–1508) implementing procedural provisions of the National Environmental Policy Act; and, in accordance with Executive Order 12114, Environmental Effects Abroad of Major Federal Actions, the Department of the Navy has prepared and filed with the U.S. Environmental Protection Agency a Draft Environmental Impact Statement (DEIS) for the operation of the Electromagnetic Pulse Radiation Environment Simulator for Ships (EMPRESS II) in both fixed point and underway station-keeping configurations in the Gulf of Mexico.

An initial set of public hearings to inform the public of the DEIS findings and to solicit comments was held on 2 through 4 May 1990. A second set of public hearings will be held on:

22 May 1990, 6:30 p.m. at the Gulf Coast Research Laboratory, J.L. Scott Marine Education Center, 1650 East Beach Blvd., Biloxi, MS,

23 May 1990, 6:30 p.m. at the Jackson-George Regional Library, 3214 Pascagoula St., Pascagoula, MS, and

24 May 1990, 6:30 p.m. at the B.C. Rain High School, 3125 Dauphin Island Parkway, Mobile, AL

These hearings will be conducted by the U.S. Navy and all oral statements will be transcribed by a Stenographer. It is important that federal, state, and local agencies, organizations and individuals take this opportunity to express their views. However, in order to allow all present an opportunity to speak, statements will be limited to five (5) minutes. If longer statements are necessary, they should be delivered in writing either at the hearing or mailed to Commander, Naval Sea Systems Command (Attn: LT Jay Rose, PMS–423) Washington, DC 20352–5101, and summarized at the public hearing. All written statements must be postmarked

by June 8, 1990 to become part of the official record. All statements, both oral and written, will become part of the public record on this study. Equal weight will be given to both oral and written statements.

As discussed in the DEIS, EMPRESS II is a transportable, barge-mounted, ocean capable Electromagnetic Pulse (EMP) simulator which will be used to identify electronic systems that are vulnerable to EMP, and to validate those systems for which EMP protection has been provided. At present, EMPRESS II is authorized to operate in international waters of the Atlantic Ocean about 20 miles off the coast of North Carolina. As a consequence of weather and sea conditions, the Atlantic Ocean operations are restricted to the months of June–August. A winter operating site is desired to meet testing requirements and provide for scheduling flexibility. The Gulf of Mexico site has been selected for study essentially by applying the same requirements that ultimately led to the selection of the Atlantic Ocean site. The site selection criteria included:

—Naval control of surface/air operations
—Minimal impact on commercial shipping/air operations
—Relatively isolated environment
—Maneuvering room with water depths of at least 50 feet
—No blocking of defined shipping channels
—Minimal socio-economic/environmental impact
—Proximity to Navy ships and shipyards
—Proximity to commercial naval shipbuilding yards
—Proximity to Navy training areas
—Acceptable transit time from berth to operating area
—Adequate expanse to effect a surface exclusion zone, two nautical miles in radius from the EMPRESS II facility
—Adequate expanses to effect an air exclusion zone, 6000 feet above the EMPRESS II facility

Based upon these requirements, the DEIS analyzed the following alternative operating areas, none of which is closer than 25 nautical miles from the nearest land mass:

Alternative	Latitude	Longitude	Military designation
1	29°17'00" N	88 °30'00" W	Eagle Gulf 1.
	29°17'00" N	88 °01'30" W	
	29°32'00" N	88 °30'00" W	
	29°32'00" N	88 °01'30" W	
2	29°36'00" N	88 °01'00" W	Lanes 5 and 6 of W-155A.
	29°48'30" N	88 °37'00" W	
	29°48'30" N	88 °01'00" W	
	29°32'30" N	88 °37'00" W	
3	29°00'30" N	88 °01'00" W	Lane 7 of W-155B.
	29°13'00" N	88 °37'00" W	
	29°13'00" N	88 °01'00" W	
	28°51'00" N	88 °37'00" W	

The combined use of alternatives 2 and 3.

Mobile, Alabama; Gulfport, Mississippi; and Pascagoula, Mississippi are being considered as berthing sites for EMPRESS II. The services required for EMPRESS II berthing and maintenance are no different than those required by most ships.

The DEIS evaluated the alternatives of No Action; Analysis and Computer Modeling; Laboratory Testing, including Scale-Model Testing and Direct-Injection Testing; Land-Based EMPRESS II; and Coastal Operating Sites.

If approved, operations in the Gulf of Mexico would be conducted during the months of November–April, for up to approximately 10 hours a day. No more than 60 days during the period of November–April would be used for testing. The public would be notified in advance of the EMPRESS II test schedule, and the associated restrictions would be published by appropriate entries in "Notice to Mariner" and "Notice to Airmen."

The restrictions consist of a two nautical mile radius exclusion zone around EMPRESS II, extending from the surface to an altitude of 6000 feet. The purpose of the exclusion zone is to prevent any damage to shipboard and aircraft electronics that are not a part of the EMPRESS II testing. There would be no adverse effects to electronic equipment which is outside the exclusion zone. The Navy would attempt to minimize the effects of the exclusion zone by coordinating, when possible, pulsing operations with other users of the text area. The Navy would provide a vessel to patrol and observe the test area in order to ensure there are not inadvertent incursions into the exclusion zone. Procedural measures would preclude EMPRESS II pulsing if surface vessels or aircraft not a part of the EMPRESS II test are within the exclusion zone.

The DEIS provides a comprehensive analysis of primary issues identified during the scoping process including endangered or threatened species; the effect of EMP on the environment, marine biota and human health; the impact of EMPRESS II operations on recreational and commercial activities including fishing, oil and gas operations; and the impact of EMPRESS II operations on land-based activities.

After more than four years of testing by independent researchers in laboratories and under actual field conditions, no evidence has been found to indicate that EMP pulsing from EMPRESS II will significantly affect the environment.

Dated: May 2, 1990.

Sandra M. Kay,

Department of the Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 89–10556 Filed 5–4–89; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

Meeting of National Commission on Drug-Free Schools

AGENCY: National Commission on Drug-Free Schools.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda for a

forthcoming meeting of the National Commission on Drug-Free Schools.

DATES/TIMES: May 10–11; 8:30 a.m.–4 p.m.

LOCATION: Charles Sumner Museum, Archives and Gallery; Seventeenth and M Streets Northwest, Washington, DC.

FOR FURTHER INFORMATION CONTACT: William Modzeleski, Executive Director, National Commission on Drug-Free Schools, Washington, DC, 20202–7584; (202) 732–6140.

Agenda: The meeting is a working session of the full Commission. Its purpose is to allow continued deliberation of all issues and concerns addressed to date throughout the prior regional hearings, in preparation for writing the final Commission report.

SUPPLEMENTARY INFORMATION: The National Commission on Drug-Free Schools was established pursuant to section 5051 of P.L. 100–690. Co-chaired by the Secretary of Education and the Director of the Office of National Drug Control Policy, the membership consists of selected members of the Senate and House of Representatives, and citizen members representing various areas of drug education, prevention, and law enforcement. The legislative mandate of the Commission is to develop recommendations for identifying drug-free schools and campuses, identifying model programs to achieve drug-free schools, and to make other findings that are consistent with its mission.

This meeting is open to the public. Records of Commission proceedings are available for public inspection at the Office of the Commission, 330 C Street, S.W., Washington, DC, from the hours of 9 a.m. to 5 p.m. during Federal government working days.

Dated: May 3, 1990.

Ted Sanders,

Under Secretary.

[FR Doc. 90–10721 Filed 5–4–90; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Grant and Cooperative Agreement Awards; National Geothermal Association

AGENCY: Department of Energy.

ACTION: Intent to review a grant with the National Geothermal Association (NGA)

SUMMARY:

Research and Development of Geothermal Technologies on an International Basis

The U.S. Department of Energy, Idaho Operations Office (DOE–ID), intends to renew a grant with the National Geothermal Association (NGA) until January 1, 1992, on a noncompetitive basis, for approximately $165,000 in additional funds. The NGA was founded in 1987 as a supporting organization to the educational, nonprofit association, the Geothermal Resource Council (GRC). These two organizations are the focal point for the Geothermal Industry. The scope of work of the existing NGA grant objective is for the promotion of the Sale of Geothermal Technology Worldwide through the development of workshops, trade missions, tours, resource assessments, and educational organizations, and other small dollar projects, to familiarize foreign developers, worldwide lending institutions, and students in the United States of potential opportunities in the Geothermal Technology field. This action is authorized by Pub. L. 93–40, Geothermal Research, Development, and Demonstration Act of 1974. The award of this noncompetitive assistance is justified under subparagraph (B) and (D) of 10 CFR 600.7 (b)(2)(i) as follows: (B) The activity is being or would be conducted by the applicant using its own resources or those donated or provided by third parties; however, DOE support of that activity would enhance the public benefits to be derived and DOE knows of no other entity which is conducting or is planning to conduct such an activity; and (D) The applicant has exclusive domestic capability to perform the activity successfully, based upon its unique qualifications. The work in this grant take place under a number of different projects with a significant third party cost share. In most of these cost shared projects, the activity will taken place with or without DOE's support. DOE's financial support will increase the quality of work, which ultimately will result in a better product for U.S. Geothermal Developers and Suppliers, and the U.S. Public interest in Geothermal Energy. This work will further advance the knowledge to meet the public need to help decrease the utilization of energy.

Grant Number: DE–FG07–891D12850.

Contact: U.S. Department of Energy, Idaho Operations Office, 785 DOE Place, Idaho Falls, Idaho 83402, Elizabeth M. Bowhan (208) 526–1229, Contracting Officer.

Dated: April 27, 1990.

J. Roger Gonzales,

Director, Contracts Management Division.

[FR Doc. 90–10565 Filed 5–4–90; 8:45 am]

BILLING CODE 6450–01–M

Advisory Committee on Nuclear Facility Safety; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: Advisory Committee on Nuclear Facility Safety.

Date & Time: Tuesday, May 22, 1990, 8 a.m. to 6 p.m., Wednesday, May 23, 1990, 8 a.m. to 1 p.m.

Place: U.S. Department of Energy, Forrestal Building, room 6E–069, 1000 Independence Ave., SW., Washington, DC 20585.

Contact: Wallace R. Kornack, Executive Director, ACNFS, S–2, 1000 Independence Ave., SW., Washington, DC 20585, 202/586–1770.

Purpose of the Committee: The Committee was established to provide the Secretary of Energy with advice and recommendations concerning the safety of the Department's production and utilization facilities, as defined in section 11 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014).

Tentative Agenda

May 22, 1990

8 a.m. Chairman John F. Ahearne Opens Meeting; DOE facility issues.
Noon Lunch.
1 p.m. Review of selected technical issues.
5:30 p.m. Public comment period.
6 p.m. Meeting adjourned until next day.

May 23, 1990

8 a.m. Subcommittee Reports, Committee Business, Review of Selected Technical Issues
1 p.m. Meeting ends.

Public Participation: This meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Wallace Kornack at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: The transcript of the meeting will be available for public review and copying at the Freedom of Information Public Reading room, IE–190, Forrestal Building, 1000 Independence Ave., SW., Washington,

DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on May 2, 1990.

J. Robert Franklin,

Deputy Advisor Committee, Management Officer.

[FR Doc. 90-10566 Filed 5-4-90; 8:45 am]

BILLING CODE 6450-01-M

Bonneville Power Administration

Availability of the Bonneville Acquisition Guide (BAG)

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of document availability.

SUMMARY: Copies of the BAG which establishes the procedures BPA uses in the solicitation, award, and administration of procurement contracts, and the Bonneville Power Assistance Instructions (BPAI) which establishes the procedures BPA uses in the solicitation, award, and administration of financial assistance instruments (principally grants and cooperative agreements) are available from BPA for $20 and $10 each, respectively.

ADDRESSES: Copies of the BAG or BPAI may be obtained by sending a check for the proper amount to the General Accounting Section—DSOG, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208.

FOR FURTHER INFORMATION CONTACT: Norman L. Linscott, Assistant to the Administrator for Contracts and Property Management, at (503) 230-4513.

SUPPLEMENTARY INFORMATION: BPA was established in 1937 as a Federal Power Marketing Agency in the Pacific Northwest. BPA operations are financed from power revenues as opposed to annual appropriations. Its procurement operations are conducted under 16 U.S.C. 832 *et seq.* and related statutes. Pursuant to these special authorities, the BAG is promulgated as a statement of procurement policy and as a body of interpretative regulations governing the conduct of BPA procurement activities. It is similar in format to the Federal Acquisition Regulations to assist offerors in locating pertinent policies. BPA's financial assistance operations are conducted under 16 U.S.C. 832 *et seq.*, and 16 U.S.C. 839 *et seq.* The BPAI express BPA's financial assistance policy. The BPAI also comprise BPA's rules governing implementation of the principles provided in the following OMB circulars:

A-21 Cost principles applicable to grants, contracts, and other agreements with institutions of higher education.

A-87 Cost principles applicable to grants, contracts, and other agreements with State and local Governments.

A-102 Uniform administrative requirements for grants in aid to State and local governments, and the common rule.

A-110 Grants and agreements with institutions of higher education, hospitals, and other nonprofit organizations.

A-122 Cost principles applicable to grants, contracts, and other agreements with nonprofit organizations.

A-128 Audits of State and local governments.

All BPA solicitations include notice of applicability and availability of the BAG and the BPAI, as appropriate, for the information of offerors on particular procurements or financial assistance transactions.

James J. Jura,

Administrator, Bonneville Power Administration.

[FR Doc. 90-10567 Filed 5-4-90; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER90-197-000, et al.]

Montana Power Co. et al.; Electric rate, Small power production and Interlocking Directorate filings

April 30, 1990.

Take notice that the following filings have been made with the Commission:

1. Montana Power Company

[Docket Nos. ER90-197-000]

Take notice that on April 24, 1990, Montana Power Company (Montana) tendered for filing additional information requested by staff regarding proposed revisions to its FERC Electric Tariff Original Volume No. 1, which set forth Montana's Nonfirm Energy for Resale Rates (M-1) Tariff.

Comment date: May 14, 1990, in accordance with Standard Paragraph E at the end of this notice.

2. Century Power Corporation

[Docket No. ER90-281-000]

Take notice that On April 26, 1990, Century Power Corporation (Century) tendered for filing an addendum to its March 23, 1990, submittal of an Economy Energy Agreement between Century and Salt River Project Agricultural Improvement and Power District (Salt River Project). The addendum explains Century's current intentions concerning the application of a billing provision which deals with the recovery of the cost of third party purchases.

Comment date: May 14, 1990, in accordance with Standard Paragraph E at the end of this notice.

3. Palisades Generating Company

[Docket No. ER90-333-000]

Take notice that on April 23, 1990, Palisades Generating Company (Palisades) tendered for filing Amendment No. 1 to the Power Purchase Agreement between Consumers Power Company and Palisades that was filed with the Commission on February 27, 1989 in Docket No. ER89-256-000.

Comment date: May 14, 1990, in accordance with Standard Paragraph E at the end of this notice.

4. Pacific Gas and Electric Company

[Docket No. ER90-337-000]

Take notice that on April 26, 1990, Pacific Gas and Electric Company (PG&E) tendered for filing proposed changes to the Interconnection Agreements with Northern California Power Agency (NCPA) (Rate Schedule FERC No. 84) and the City of Santa Clara (CSC) (Rate Schedule FERC No. 85). The changes, contained in a letter agreement between the parties executed on March 22, 1990, pertain to a more flexible transmission scheduling practice for the power output of NCPA's and CSC's Geothermal Plants 1 and 2.

Comment date: May 11, 1990, in accordance with Standard Paragraph E at the end of this notice.

5. Northeast Utilities Service Company

[Docket Nos. ER90-172-000, ER90-178-000, ER90-193-000, ER90-204-000]

Take notice that on April 10, 1990, Northeast Utilities Service Company (NUSCO) tendered for filing additional information requested by staff in the above referenced dockets regarding the capacity charge (or energy reservation charge) component of the related rate schedules.

Comment date: May 14, 1990, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211

and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-10465 Filed 5-4-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER90-335-000 et al.]

Niagara Mohawk Power Corp. et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Take notice that the following filings have been made with the Commission:

1. Niagara Mohawk Power Corporation

[Docket Nos. ER90-335-000]

April 27, 1990.

Take notice that Niagara Mohawk Power Corporation (Niagara Mohawk), on April 24, 1990, tendered for filing an agreement between Niagara Mohawk and New England Power Service (NE) dated November 8, 1988 providing for certain transmission services to NEP. This agreement provides for the transmission and delivery by Niagara Mohawk of 75 MW of firm power for the period November 1, 1988 through April 30, 1989; 175 MW for the period May 1, 1989 through October 31, 1989; 115 MW of power for the period November 1, 1989 through April 30, 1990; and 50 MW for the period May 1, 1990 through August 31, 1990 with an option, upon thirty-five (35) days notice for an additional 25 MW for the period May 1, 1990 through October 31, 1990, and with a second option, upon sixty (60) days through October 31, 1990. Niagara Mohawk will wheel the power NEP purchases from New York State Electric and Gas (NYSEG) from Niagara Mohawk's interconnection with NYSEG to its interconnection with NEP.

An effective date of May 1, 1988 is proposed. Niagara Mohawk states that waiver of the notice requirements of 18 CFR section 35.3 is warranted because NEP, the only customer under this rate schedule has consented to the effective date and the service provided by this agreement will commence on November 1, 1988.

Copies of this filing were served upon NEP and the New York State Public Service Commission.

Comment date: May 11, 1990, in accordance with Standard Paragraph E at the end of this notice.

2. Kansas City Power & Light Company

[Docket No. ER90-334-000]

April 27, 1990.

Take notice that on April 23, 1990, Kansas City Power & Light Company (KCPL) tendered for filing an Amendatory Agreement No. 2 to Municipal Participation Agreement (MPA), between KCPL and the City of Gardner, Kansas dated March 15, 1990. KCPL states that the Amendatory Agreement provides clarification of the ownership and maintenance of certain substation facilities to be build under the MPA.

KCPL requests an effective date of June 1, 1989, and therefore requests waiver of the Commission's notice requirements.

Comment date: May 11, 1990, in accordance with Standard Paragraph E end of this notice.

3. Tampa Electric Company

[Docket No. ER90-336-000]

April 27, 1990.

Take notice that on April 25, 1990, Tampa Electric Company (Tampa Electric) tendered for filing a Letter Agreement that amends an existing Letter of Commitment providing for the sale by Tampa Electric to the Kissimmee Utility Authority (Kissimmee) of 30 megawatts of capacity and energy. The amendment provides for the sale of an additional five megwatts of capacity and associated energy.

Tampa Electric states that the Letter Agreement is submitted as a supplement to Service Schedule D (long-term interchange service) under the existing agreement for interchange service between Tampa Electric and Kissimmee, designated as Tampa Electric Rate Schedule FERC No. 16.

Tampa Electric proposes an effective date of May 1, 1990, for the amendment to the Letter of Commitment, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been served on Kissimmee and the Florida Public Service Commission.

Comment date: May 11, 1990, in accordance with Standard Paragraph E end of this notice.

4. Montaup Electric Company

[Docket No. ER90-332-000

April 27, 1990.

Take notice that on April 23, 1990, Montaup Electric Company (Montaup) tendered for filing a notice of cancellation of Montaup's Rate Schedules FERC Nos. 89 and 90 for service to Public Service Company of New Hampshire and Massachusetts Municipal Wholesale Electric Cooperative as of September 30, 1989.

Comment date: May 11, 1990, in accordance with Standard Paragraph E at the end of this notice.

5. Montaup Electric Company

[Docket No. ER90-331-000

April 27, 1990.

Take notice that on April 23, 1990, Montaup Electric Company (Montaup) tendered for filing a notice of cancellation of Montaup's Rate Schedule FERC No. 91 for service to Boston Edison Company as of August 31, 1989.

Comment date: May 11, 1990, in accordance with Standard Paragraph E at the end of this notice.

6. Robert K. Campbell

[Docket No. ID-2476-000

April 27, 1990.

Take notice that on April 25, 1990, Robert K. Campbell (Applicant) tendered for filing an application under section 305(b) of the Federal Power Act to hold the following positions:

Chairman, President and CEO, Pennsylvania Power & Light Co.
Director, AMP Inc.
Director, Pamcor, Inc.

Comment date: May 16, 1990, in accordance with Standard Paragraph E at the end of this notice.

7. H. Lyman Bretting

[Docket No. ID-2475-000

April 27, 1990.

Take notice that on April 23, 1990, H. Lyman Bretting (Applicant) tendered for filing an application under section 305(b) of the Federal Power Act to hold the following positions:

Director, NSP-Minn
Director, NSP-Wis

Comment date: May 16, 1990, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in

determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-10466 Filed 5-4-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP90-1219-000 et al.]

Equitrans, Inc., et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Equitrans, Inc.

[Docket No. CP90-1219-000]

April 27, 1990.

Take notice that on April 4, 1990, Equitrans, Inc. (Equitrans), 4955 Steubenville Pike, Pittsburgh, PA 15205, filed in Docket No. CP90-1219-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide interruptible transportation service for O&R Energy, Inc. (O&R), under its blanket certificate issued in Docket No. CP86-553-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Equitrans states that pursuant to a transportation service agreement dated March 12, 1990, it proposes to transport up to 20,000 Mcf per day of natural gas for O&R under its Rate Schedule ITS. Equitrans further states that the agreement provides for it to transport the gas from existing receipt points in Pennsylvania and West Virginia, and to redeliver the gas at existing points of interconnection between its facilities and the facilities of Texas Eastern Transmission Corporation located in Pennsylvania. Equitrans estimates that 8,550 Mcf would be transported on an average day and that 1,800,000 Mcf would be transported annually. Finally, Equitrans advises that the service commenced on February 1, 1990, as reported in Docket No. ST90-2365, pursuant to § 284.223(a) of the Commission's Regulations.

Comment date: June 11, 1990, in accordance with Standard Paragraph G at the end of this notice.

2. Natural Gas Pipeline Co.

[Docket No. CP90-1247-000]

April 27, 1990.

Take notice that on April 25, 1990, Natural Gas Pipeline Company of America (Applicant), 701 East 22nd Street, Lombard, Illinois, 60148, filed in Docket No. CP90-1247-000 an application pursuant to section 7(b) of the Natural Gas for permission and approval to abandon: (1) The certificated firm transportation service in Docket No. CP73-219 performed by Applicant under its Rate Schedule X-48 for United Gas Pipe Line Company (United); and (2) the certificated firm and interruptible transportation service in Docket No. CP82-50 performed by Applicant under its Rate Schedule X-130 for United, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant states the proposed abandonment will relieve United of the cost of transportation service it no longer requires and will enable Applicant to "free up" capacity that can be used to serve new shippers.

Applicant states that it has entered into two termination agreements dated March 26, 1990, with United which provide for the termination of the transportation services as proposed herein, effective March 31, 1990. No facilities are proposed to be abandoned herein.

Comment date: May 14, 1990, in accordance with Standard Paragraph F at the end of this notice.

3. K N Energy, Inc.

[Docket No. CP90-1218-000]

April 27, 1990.

Take notice that on April 19, 1990, K N energy, Inc. (K N) P.O. Box 15265, Lakewood, Colorado 80215, filed in Docket No. CP90-1218-000, a request, pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authority to construct and operate 23 sales taps to various end users, under the authorization issued in Docket Nos. CP83-140-000, CP83-140-001, and CP83-140-002 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

K N requests authority to construct and operate the 23 sales taps as identified in the Appendix. It is alleged that the natural gas delivered through these 23 taps will ultimately be consumed by various end users served directly from K N's general system supply. It is claimed that the proposed sales taps are not prohibited by any of K N's existing tariffs, and the addition of the new sales taps would have no significant impact on K N's peak day and annual deliveries. It is averred that the gas delivered and sold by K N to the various end users would be priced in accordance with the currently filed rate schedules authorized by the applicable state and local regulatory bodies having jurisdiction over the sales.

Comment date: June 11, 1990, in accordance with Standard Paragraph G at the end of this notice.

APPENDIX—K N ENERGY, INC.

[Docket No. CP90-1218-000]

Customer	Location of tap	Approx. quantity to be sold (MCF)		End use of gas	Est. cost of facilities [1]
		peak day	annual		
Resident/Occupant 90-1, Allan Vance	SE/4 Sec. 7-5N-38W, Chase Co., Nebraska	29	950	Irrigation	850
Resident/Occupant 90-2, Dean Rocket	NE/4 Sec. 21-11N-1E, Seward Co., Nebraska	31	91,050	Irrigation	850
Resident/Occupant 90-3, Thurber Farms	SW/4 Sec., 27-5N-5W, Clay Co., Nebraska	29	950	Irrigation	850
Resident/Occupant 90-4, Stacy Horne	NW/4 Sec., 30-18S-32W, Scott Co., Kansas	2	120	Domestic	850
Resident/Occupant 90-5, Blaschko Brothers	SE/4 Sec. 32-11N-14W, Buffalo Co., Nebraska	28	950	Irrigation	850
Resident/Occupant 90-6, MKBP Partnership	SW/4 Sec. 3-4N-16W, Franklin Co., Nebraska	29	950	Irrigation	850
Resident/Occupant 90-7, Lush Farm	NW/4 Sec. 25-4N-17W, Harlan Co., Nebraska	48	1,600	Irrigation	1,150
Resident/Occupant 90-8, Alden Quiving	NE/4 Sec. 16-11N-4W, York Co., Nebraska	19	600	Irrigation	850
Resident/Occupant 90-9, Donald Hanquist	NE/4 Sec. 36-12N-3W, York Co., Nebraska	14	450	Irrigation	850
Resident/Occupant 90-10, Mary Meier	NE/4 Sec., 1-9S-30W, Sheridan Co., Kansas	26	850	Irrigation	850
Resident/Occupant 90-11, Elmer Hahn	SE/4 Sec., 20-23S-16W, Pawnee Co., Nebraska	24	800	Irrigation	850
Resident/Occupant 90-12, John Steingard	SW/4 Sec., 24-10N-4W, York Co., Nebraska	90	3,000	Irrigation	2,500
Resident/Occupant 90-13, Garry Jenson	SW/4 Sec., 3-11N-5W, Hamilton Co., Nebraska	50	1,600	Irrigation	1,150

APPENDIX—K N ENERGY, INC.—Continued

[Docket No. CP90-1218-000]

Customer	Location of tap	Approx. quantity to be sold (MCF)		End use of gas	Est. cost of facilities [1]
		peak day	annual		
Resident/Occupant 90-14, Jimmy Hahn	SE/4 Sec. 5-18S-38W, Wichita Co., Kansas	2	120	Domestic	850
Resident/Occupant 90-15, Laura Schuster	NW/4 Sec. 16-10N-8W, Hamilton Co., Nebraska	2	120	Domestic	850
Resident/Occupant 90-16, Dale Paider	NE/4 Sec. 26-17N-16W, Valley Co., Nebraska	2	120	Domestic	850
Resident/Occupant 90-17, Ken Griess	SE/4 Sec. 21-8N-4W, Fillmore Co., Nebraska	26	850	Irrigation	850
Resident/Occupant 90-18, David Friedrich	SW/4 Sec. 14-28N-5W, Antelope Co., Nebraska	24	800	Irrigation	850
Resident/Occupant 90-19, Perry A. Case	SE/4 Sec. 22-3N-29W, Red Willow Co., Nebraska	17	550	Irrigation	850
Resident/Occupant 90-20, Leroy Feagler	SE/4 Sec. 3-24N-61W, Goshen Co., Wyoming	2	120	Domestic	850
Resident/Occupant 90-21, Larry Brungardt	SE/4 Sec. 4-24N-61W, Goshen Co., Wyoming	2	120	Domestic	850
Resident/Occupant 90-22, Nelson Farms	NW/4 Sec. 11-2S-21W, Norton Co., Kansas	17	550	Irrigation	850
Resident/Occupant 90-23, Olsen Manufacturing	NW/4 Sec. 34-30N-14W, Holt Co., Nebraska	720	80,000	Commercial	2,000

[1] Customers reimburse to KN a portion of these costs through imposition of a connection charge which varies by state as follows: Kansas—$250, Nebraska—$400 and Wyoming—$400.

4. BP Gas Inc. (Formerly Standard Gas Marketing Co.) and TEX/CON Gas Marketing Co.

[Docket No. CI87-826-002]

April 27, 1990.

Take notice that on December 29, 1989, as amended on January 9 and April 13, 1990, BP Gas Inc. and TEX/CON Gas Marketing Company (Applicant), c/o TEX/CON Oil & Gas Company, 9401 Southwest Freeway, Suite 1200, Houston, Texas 77074, filed an application pursuant to sections 4 and 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder to amend the unlimited term blanket certificate with pregranted abandonment previously granted to Standard Gas Marketing Company in Docket No. CI87-826-001 (1) to redesignate the certificate in the name of BP Gas Inc., (2) to add TEX/CON Gas Marketing Company as a certificate holder, and (3) to include authorization for sales for resale of imported gas, including liquified natural gas, and gas purchased from "non-first-sellers" such as gas purchased from interstate pipelines under interruptible discount sales programs, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant states that effective July 13, 1988, Standard Gas Marketing Company changed its name to BP Gas Marketing Company and that effective January 31, 1989, BP Gas Marketing Company changed its name to BP Gas Inc. In addition, Applicant states that effective January 1, 1990, as a part of a corporate reorganization TEX/CON Gas Marketing Company became partial successor-in-interest to BP Gas Inc.'s natural gas purchase and sales contracts.

Comment date: May 16, 1990, in accordance with Standard Paragraph J at the end of the notice.

5. Coastal Gas Marketing Co.

[Docket No. CI89-194-002]

April 27, 1990.

Take notice that on April 16, 1990, Coastal Gas Marketing Company (CGM) of Coastal Tower, 9 Greenway Plaza, Houston, Texas 77046, filed an application pursuant to sections 4 and 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder to amend its blanket limited-term certificate with pregranted abandonment previously issued by the Commission in Docket No. CI89-194-001 to authorize sales for resale of ISS gas, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Comment date: May 16, 1990, in accordance with Standard Paragraph J at the end of this notice.

6. Maxus Exploration Co. and Diamond Shamrock Offshore Partners Limited Partnership

[Docket No. CI87-747-002]

April 27, 1990.

Take notice that on April 23, 1990, Maxus Exploration Company and Diamond Shamrock Offshore Partners Limited Partnership (Applicant) of 717 North Harwood Street, Dallas, Texas 75201, filed an application pursuant to section 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder to amend its blanket unlimited-term certificate with pregranted abandonment previously issued by the Commission in Docket No. CI87-747-001 to include authorization for sales for resale of surplus gas acquired from non-first sellers, imported gas and liquified natural gas, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Comment date: May 16, 1990, in accordance with Standard Paragraph J at the end of this notice.

7. Victoria Gas Corp.

[Docket No. CI87-648-002]

April 27, 1990.

Take notice that on April 18, 1990, Victoria Gas Corporation (Victoria) of 450 Gears Road, suite 200, Houston, Texas 77067, filed an application pursuant to sections 4 and 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder to amend its blanket unlimited-term certificate with pregranted abandonment previously issued by the Commission in Docket No. CI87-648-001 to include authorization to make sales for resale of imported gas and gas that is obtained through interstate pipeline discount interruptible sales programs, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Comment date: May 16, 1990, in accordance with Standard Paragraph J at the end of the notice.

8. Phibro Energy, Inc.

[Docket No. CI90-3-000

April 27, 1990.

Take notice that on October 10, 1989, as amended on April 23, 1990, Phibro

Energy Inc. (Phibro) of 600 Steamboat Road, Greenwich, Connecticut 06830, filed an application pursuant to sections 4 and 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder for an unlimited term blanket certificate with pregranted abandonment to authorize sales for resale of natural gas subject to the Commission's NGA jurisdiction including gas imported from Canada and gas purchased from "non-first-sellers" such as gas sold to Phibro under pipelines' discount sales authority, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Comment date: May 16, 1990, in accordance with Standard Paragraph J at the end of this notice.

9. Transcontinental Gas Pipe Corp., KN Energy, Inc., High Island Offshore System, High Island Offshore System

[Docket Nos. CP90-1216-000, CP90-1217-000, CP90-1220-000, CP90-1221-000]

April 27, 1990.

Take notice that on April 19, 1990, the above listed companies filed in the respective dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under their blanket certificates issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection.[1]

A summary of each transportation service which includes the shippers identity, the peak day, average day and annual volumes, the receipt point(s), the delivery point(s), the applicable rate schedule, and the docket number and service commencement date of the 120-day automatic authorization under § 284.223 of the Commission's Regulations is provided in the attached appendix.

Comment date: June 11, 1990, in accordance with Standard Paragraph G at the end of this notice.

[1] These prior notice requests are not consolidated.

APPENDIX

[Docket No. CP90-1216-000, et al.]

Docket number (date filed)	Applicant	Shipper name	Peak day [1] avg. annual	Points of		Start up date rate schedule	Related [2] dockets
				Receipt	Delivery		
CP90-1216-000 (4-19-90)	Transcontinental Gas Pipe Line Corporation.	Texarkana Transportation Company.	5,000 5,500 1,825,000	Offshore TX	Offshore LA	2-24-90, IT	CP88-328-000, ST90-2164-000.
CP90-1217-000 (4-19-90)	K N Energy Inc.	Nebraska Municipal Power Pool.	11,500 11,500 4,197,500	Various	NE	3-1-90, ITS-1, IT-2, IT-3.	CP90-1043-000, ST90-2357-000.
CP90-1220-000 (4-19-90)	High Island	BP Gas, Inc.	8,250 2,275 3,011,250	Offshore TX & LA	Offshore TX & LA	2-1-90, FT	RM88-14-001, RM88-15-000, ST90-2008-000.
CP90-1221-000 (4-19-90)	High Island Offshore System.	BP Gas, Inc.	15,000 15,000 5,475,000	Offshore TX & LA	Offshore TX & LA	2-1-90, FT	RM88-14-001, RM88-15-000, ST90-2068-000.

[1] Quantities are shown in MMBtu unless otherwise indicated.
[2] The CP and RM dockets corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

10. Tennessee Gas Pipeline Co., Transcontinental Gas Pipe Line Corp.

[Docket No. CP90-1231-000 and CP90-1232-000]

April 27, 1990.

Take notice that on April 20, 1990, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, in Docket No. CP90-1231-000, and on April 23, 1990, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, in Docket No. CP90-1232-000 filed requests with the Commission in the above referenced dockets, pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (NGA), for authorization to transport natural gas on behalf of Enserch Gas Company (Enserch), a natural gas marketer, and BP Gas, Inc. (BP Gas), a natural gas shipper, under their respective blanket certificates issued in Docket Nos. CP87-115-000 and CP88-328-000 pursuant to section 7 of the NGA, all as more fully set forth in the requests which are open to public inspection.[2]

Tennessee and Transco propose interruptible natural gas transportation services for Enserch and BP Gas under their respective FERC Rate Schedule IT. Tennessee and Transco have also provided other information applicable to these transactions, including the peak day, average day, and annual volumes; service initiation dates; and the related docket numbers of the 120-day transactions under § 284.223(a) of the Regulations, as summarized in the attached appendix.

Comment date: June 11, 1990, in accordance with Standard Paragraph G at the end of this notice.

[2] These prior notice requests are not consolidated.

APPENDIX

[Docket Nos. CP90-1231-000, et al.]

Transporter & docket number	Shipper	Volumes-dth (peak, average annual)	ST docket start up date	Receipt points (state)	Delivery points (state)
Tennessee CP90-1231-000	Enserch Gas Company	100,000 100,000 36,500,000	ST90-2589 3-25-90.	AR, LA, MS, OH, TX, WV	AL, CT, KY, LA, MA, MS, NH, NJ, NY, OH, PA, TN, TX, WV.
Transco CP90-1232-000	BP Gas, Inc.	848,000 100,000 309,520,000	ST90-2385 3-1-90	LA, TX	DE, GA, LA, MD, MS, NJ, NY, NC, PA, TX, SC, VA.

11. Northwest Pipeline Corp.

[Docket Nos. CP90-1255-000 and CP90-1256-000]

April 30, 1990.

Take notice that Northwest Pipeline Corporation, 295 Chipeta Way, Salt Lake City, Utah 84108, (Applicant), filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued in Docket No. CP86-578-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[3]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicant and is summarized in the attached appendix.

Applicant states that each of the proposed services would be provided under an executed transportation agreement, and that Applicant would charge the rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: June 14, 1990, in accordance with Standard Paragraph G at the end of this notice.

APPENDIX

[Docket No. CP90-1255-000, et al.]

Docket number (date filed)	Shipper name (type)	Peak day average day annual MMBTu	Receipt points	Delivery points	Contract date rate schedule service type	Related docket, start up date
CP90-1255-000 (4-26-90)	Internationaler Energie Fonds, GMBH (producer).	4,000 500 182,500	Any Receipt Point	Any Delivery Point	[2] 11-3-89 TI-1 Interruptible.	ST90-2635-000, 2-1-90.
CP90-1256-000 (4-26-90)	Western Gas Processors, Ltd. (end user).	100,000 1,500 547,500	Any Receipt Point	Any Delivery Point	[3] 2-10-88 TI-1 Interruptible.	ST90-2633-000, 3-1-90.

[2] As amended December 1, 1989, and February 1, 1990.
[3] As amended March 1, 1990.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is

[3] These prior notice requests are not consolidated.

filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Standard Paragraph

J. Any person desiring to be heard or make any protest with reference to said filings should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426 a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protest filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

Lois. D. Cashell,

Secretary.

[FR Doc. 89-10464 Filed 5-4-89; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2426-028 California]

California Department of Water Resources; Availability of Environmental Assessment

April 30, 1990.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for major license amendment for the partially constructed Mojave Siphon Project located on the East Branch of the California Aqueduct, in San Bernardino County, near San Bernardino, California, and has prepared an Environmental Assessment (EA) for the proposed project. In the EA, the Commission's staff has analyzed the potential environmental impacts of the proposed project and has concluded that approval of the proposed project, with appropriate mitigation measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, room 3006 of the Commission's offices at 941 North Capitol Street NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 90-10468 Filed 5-4-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-107-000]

Proposed Changes in FERC Gas Tariff; Columbia Gulf Transmission Co.

May 1, 1990.

Take notice that on April 30, 1990, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing revised changes in its FERC Gas Tariff, First Revised Volume No. 1 with a proposed effective date of June 1, 1990.

Columbia Gulf states that the purpose of the filing is to provide for the level of rates and charges required to recover its costs. When compared to the underlying rates in Docket No. RP89-249-003, which became effective April 1, 1990, subject to refund, the proposed change in rates shows an annual revenue increase of approximately $10.9 million.

Columbia Gulf states that the proposed rates reflect the cost functionalization, cost classification, cost allocation and rate design methodology established in the Global Settlement in Docket No. RP86-167, in accordance with Article 1, section F of the Global Settlement, and a projected level of transportation volumes and revenues.

Columbia Gulf also proposes certain changes to the tariff provisions governing open-access transportation services which it states will improve the efficiency with which it renders such service.

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, Union Center Plaza Building, 825 North Capitol Street NE., Washington DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedures. All such motions or protests should be filed on or before May 9, 1990. 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 Columbia Gulf's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-10456 Filed 5-4-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-108-000]

Notice of Proposed Changes in FERC Gas Tariff; Columbia Gas Transmission Corp.

May 1, 1990.

Take notice that on April 30, 1990, Columbia Gas Transmission Corporation (Columbia) tendered for filing proposed changes to its FERC Gas Tariff, Original Volume Nos. 1 and 2 (identified in appendix A hereto), with a proposed effective date of June 1, 1990. Columbia requests that the Commission suspend the rates and tariff sheets for the full statutory period so that they become effective on November 1, 1990.

Columbia states that the purpose of the filing is to (a) implement a general rate increase in order to further implement certain agreements reached in the June 29, 1989 Stipulation and Agreement approved by the Commission on October 19, 1989 in Columbia's Docket No. RP86-168-000, et al., 49 FERC ¶ 61,071 (1989) ("Global Settlement"), (b) implement other changes in the cost of service, throughout and demand billing determinants through the end of the test period, and (c) propose certain changes to its FERC Gas Tariff, First Revised Volume No. 1 and Original Volume No. 2. Columbia states there are two primary reasons for making the filing. The first is to reflect in Columbia's rates the facilities and costs associated with construction of certain "Global Settlement facilities" envisioned by Article IV, section C of the Global Settlement. The second primary reason for the filing is to reflect the facilities and associated costs resulting from the merger of Columbia and Commonwealth Gas Pipeline Corporation ("Commonwealth").

When compared to the rates which became effective on April 1, 1990, subject to refund, in Docket No. RP89-250, Columbia states that the proposed rates reflect an annual revenue increase of approximately $74.2 million. This deficiency assumes the full level of demand entitlements associated with Global Settlement facilities construction becoming effective on November 1, 1990.

Columbia states that the instant filing reflects the following primary changes:

(1) Revised non-gas sales, transportation and storage service rates based upon a cost of service for the twelve months ended January 31, 1990, adjusted for known and measurable changes anticipated to occur on or before October 31, 1990;

(2) Use of the cost classification, cost allocation and rate design methodology established in the Global Settlement, and the cost functionalization utilized in Docket No. RP86–168, in accordance with Article I, section F of the Global Settlement;

(3) A representative level of revenue attributable to discounted transportation;

(4) Revisions to the FTS and ITS Rate Schedules and related FTS Form of Service Agreement to provide for more efficient transportation service, including (a) provisions for interruptible receipt and delivery points under firm transportation agreements; (b) elimination of the 30-day renewal of requests for firm transportation service and substitution of a prepayment provision for existing and future potential shippers in the firm transportation queue; (c) changes in allocation of interruptible receipt point capacity; (d) identification of shippers on the upstream pipeline or producer delivering gas to Columbia; and (e) certain other minor revisions described in the filing;

(5) A modification of the FSS Rate Schedule to permit Columbia to specify the deadline for notice of desired deliveries from storage;

(6) A revision to section 10 of the General Terms and Conditions of Columbia's Tariff to provide for payment of bills by wire transfer; and

(7) Addition of Rate Schedule X–131 (providing for continuation of LNG service to Commonwealth's customers) to Columbia's Original Volume No. 2 Tariff as a necessary and integral part of the merger of Columbia and Commonwealth.

Columbia states that copies of the filing were served upon Columbia's wholesale customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 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 motions or protests should be filed on or before May 9, 1990. 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 proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Columbia's filings are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90–10460 Filed 5–4–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TO90–2–53–000]

Proposed Changes in FERC Gas Tariff; K N Energy, Inc.

May 1, 1990.

Take notice that K N Energy, Inc. ("K N") on April 27, 1990, tendered for filing proposed changes in its FERC Gas Tariff to adjust the rates charged to its jurisdictional customers pursuant to the Purchased Gas Adjustment provision (section 19) of the General Terms and Conditions of K N's FERC Gas Tariff, Original Volume No. 1–B to reflect changes in the Current Adjustment. The filing proposes increases (decreases) to K N's rates as set forth in the table below:

	Zone 1	Zone 2
CD, SF and WPS Commodity	(15.91)¢	(15.91)¢
D1 Demand	0.71¢	0.96¢
D2 Demand	(0.55)¢	(0.61)¢
WPS Demand	1.43¢	1.93¢
IOR Commodity	(15.75)¢	(15.56)¢

K N states that the filing reflects revision to its base tariff rates to reflect projected weighted average gas costs for the quarter ending August 31, 1990. The proposed effective date for the rate changes is June 1, 1990.

K N states that copies of the filing were served upon K N's jurisdictional customers, and interested public bodies.

Any person desiring to be heard or to make any protest with reference to this filing should, on or before May 9, 1990, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a petition to intervene or a protest in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90–10457 Filed 5–4–90; 8:45 am]

BILLING CODE 6717–01–M

Docket No. RP90–109–000]

Change in Rates; Pacific Gas Transmission Co.

May 1, 1990.

Take notice that Pacific Gas Transmission Company (PGT), on April 30, 1990, tendered for filing a change in rates (and certain tariff provisions) for natural gas service rendered to jurisdictional customers pursuant to Rate Schedules PL–1, S–1, T–1, T–2, and ITS–1 contained in its First Revised Volume No. 1 and Original Volume No. 1–A of its FERC Gas Tariff.

This change in rates is filed pursuant to section 4 of the Natural Gas Act and part 154 of the Regulations issued thereunder.

PGT states that it proposes to replace its cost-of-service formula with stated rates for all services except the purchased gas portion of sales service provided under Rate Schedules PL–1 and S–1. Costs for the Prebuild Facilities have been allocated entirely to Pacific Interstate Transmission Company reflecting PGT's historical treatment of the cost of these facilities.

PGT proposes a non-gas revenue requirement of $75.5 million to recover its projected operating expenses, depreciation, taxes and return. PGT proposes a return on equity of 14.25% and a debt cost of 10.50% which, when applied to PGT's pro-forma capital structure of 31.14% debt and 68.86% equity, results in an overall rate of return of 13.08%.

PGT proposes to update its straight-line depreciation rates to reflect actual plant additions from December 31, 1986 through December 31, 1989 and estimated additions during the test period (January 1, 1990 through September 30, 1990) and for three years thereafter.

PGT states that the rates proposed in the Notice of Change are in compliance with the goals of the FERC's Rate Design Policy Statement in Docket No. PL 89–2–000. PGT proposes to adjust the Modified-Fixed-Variable cost classification methodology by including a portion of the equity return and related taxes, all production related costs and all variable costs to commodity.

Demand-related costs have been allocated among rate schedules based on a system average three-day peak-mile allocation factor. Commodity costs have been allocated on a throughput-mile allocation factor.

For firm service rate design a single reservation/demand charge and a commodity charge is utilized. For interruptible transportation service PGT has continued the use of the 100% load-factor rate design. Rates are mileage based.

PGT proposes to offer a one-time capacity entitlement reduction opportunity to its firm customers. Additionally, PGT states that it shall file, shortly after the instant filing, an application seeking authorization to permit its firm transportation customers to assign capacity rights held by them.

PGT has requested that waiver be granted to all applicable rules and regulations of the Commission as may be necessary to implement this Notice of Change effective June 1, 1990.

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 §§ 385.214 and 385.211 of the Commission's Regulations. All such motions or protests should be filed on or before May 9, 1990. 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. 90-10461 Filed 5-4-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-104-000]

Proposed Changes in FERC Gas Tariff; Texas Gas Transmission Corp.

May 1, 1990

Take notice that on April 27, 1990 Texas Gas Transmission Corporation (Texas Gas) tendered for filing changes to its FERC Gas Tariff, Original Volume No. 1, Original Volume No. 2, and Original Volume No. 2-A. The proposed changes would increase revenues from jurisdictional sales and services by approximately $53.9 million, based on the twelve-month period ended January 31, 1990, as adjusted, compared with the underlying rates. The underlying sales rates are the base tariff rates as set forth on Texas Gas's FERC Gas Tariff, Original Volume No. 1, Twenty-sixth Revised Sheet Nos. 10 and 10A, effective April 1, 1990, plus the current purchased gas adjustment. The underlying transport rates are the rates set forth on Texas Gas's FERC Gas Tariff, Original Volume No. 2-A, Substitute Third Revised Sheet Nos. 10 and 11, effective January 1, 1990.

Texas Gas states that the adjustments in rates are attributable to:

(1) An increase in the utility rate base;

(2) Increases in operating expense;

(3) Increase in rate of return and related taxes; and

(4) Revised system rate design quantities.

Texas Gas requests an effective date of June 1, 1990, for the proposed Tariff Sheets. Texas Gas further states that it has served copies of this filing upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or protest said filing 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 Rules 2.4 and 2.11 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before May 9, 1990. 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 Petition to Intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-10458 Filed 5-4-90; 8:45 am]

BILLING CODE 6712-01-M

[Docket No. RP90-105-000]

Proposed Changes in FERC Gas Tariff; Transwestern Pipeline Co.

May 1, 1990.

Take notice that Transwestern Pipeline Company (Transwestern) on April 27, 1990, tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets:

1st Revised Sheet No. 29F
Original Sheet No. 29G
7th Revised Sheet No. 30
7th Revised Sheet No. 32
4th Revised Sheet No. 32A
6th Revised Sheet No. 33
2nd Revised Sheet No. 33A
Original Sheet No. 33B
1st Revised Sheet No. 81A
Original Sheet No. 81B

Transwestern submitted the above listed tariff sheets to: (1) Revise Rate Schedules FTS-1 and ITS-1 to permit Transwestern, on a not unduly discriminatory basis, to install or modify facilities that are necessary to provide transportation services without receiving reimbursement; and (2) refine the procedures for an ITS-1 Shipper electing to pay the Maximum ITS-1 Transport Charge during the month.

In the past, construction of some facilities that would have been economically beneficial to Transwestern and its customers by providing incremental transportation service and supply sources did not occur because competitive situations precluded producers and other potential shippers from reimbursing Transwestern for the facilities' costs.

Under this instant filing, Transwestern has attempted to remedy the exception articulated by the Commission in its Letter Order dated January 5, 1990. Specifically, Transwestern proposes an additional tool to assist in maintaining throughput on its system from sources which, under the present tariff provision, would not be connected. The proposed tariff changes would allow Transwestern to evaluate on a not unduly discriminatory basis each situation based on the factual circumstances and determine if the attachment of such gas supplies would be economical to Transwestern. For purposes of determining whether a project is economical, Transwestern would consider, among other things, the amount of the reserves and deliverability characteristics of the gas supply to be attached, the cost of the facilities to be constructed, and the revenues Transwestern estimates will be generated as a result of attaching the new supplies. The proposed effective date is June 1, 1990.

In addition, Transwestern's current tariff provides that shippers not willing to pay the applicable Maximum ITS-1 Transport Charge are scheduled only after shippers paying the applicable Maximum ITS-1 Transport Charge. In this filing, Transwestern also seeks to revise Rate Schedule ITS-1 to establish procedures for providing flowing gas discounted ITS-1 Shipper(s) notice during the month that another ITS-1 Shipper(s) is willing to pay the Maximum ITS-1 Transport Charge, which would potentially interrupt transportation service to the flowing gas discounted ITS-1 Shipper(s). Transwestern would post a notice of the election on its Electronic Bulletin Board

by 2 p.m. on the date Transwestern receives the maximum transportation charge election. Such notice would provide the discounted ITS–1 Shipper(s) sufficient notification to decide whether to pay the Maximum ITS–1 Transport Charge in order to avoid interruption of transportation service. Transwestern believes that these proposed tariff revisions would provide greater continuity of service and stability of transactions within the calendar month to shippers under Rate Schedule ITS–1.

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 N. Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before May 9, 1990. 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. 90–10459 Filed 5–4–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP62–205–001]

Washington Gas Light Co.; Correction and Extension of Time

May 1, 1990.

Take notice that the notice issued on April 11, 1990, in this proceeding contained an error as published in the **Federal Register** (55 FR 15272, April 23, 1990). The comment date should be changed to May 9, 1990. Any person desiring to be heard or to make any protest with reference to the petition to amend should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Washington, DC 20426 on or before the comment date of accordance with the regulations of the Commission's rules of practice and procedure (18 CFR 385.211 or 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's rules.

Lois D. Cashell,

Secretary.

[FR Doc. 90–10467 Filed 5–4–90; 8:45 am]

BILLING CODE 6717–01–M

Office of Hearings and Appeals

Proposed Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of proposed implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the proposed procedures for the disbursement of $3,800,000, plus accrued interest, obtained by the DOE under the terms of a consent order entered into with Quintana Energy Corporation, Quintana Refinery Co. and Quintana Petrochemical company. The petroleum related activities of the Quintana-Howell Joint Venture are also covered by these procedures. The OHA has tentatively determined that the funds will be distributed in accordance with the DOE's special refund procedures, 10 CFR part 205, subpart V.

DATE AND ADDRESS: Comments must be filed in duplicate on June 6, 1990 and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All comments should display a reference to case number KEF–0131.

FOR FURTHER INFORMATION CONTACT: Thomas L. Wieker, Deputy Director, Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585, (202) 586–2390.

SUPPLEMENTARY INFORMATION: In accordance with section 205.282(b) of the procedural regulations of the Department of Energy (DOE), 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision and Order sets forth the procedures that the DOE has tentatively formulated to distribute $3,800,000 that has been remitted by Quintana Energy Corporation, Quintana Refinery Co. and Quintana Petrochemical Company to the DOE to settle possible violations of the federal petroleum price and allocation regulations. The petroleum related activities of the Quintana-Howell Joint Venture are also covered by these procedures. The DOE is currently holding the funds in an interest bearing account pending distribution.

Applications for refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized. Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of the publication in the **Federal Register**, and should be sent to the address set forth at the beginning of this notice. All comments received will be available for public inspection between the hours of 1 p.m. through 5 p.m., Monday through Friday, except federal holidays, in the Public Reference room of the Office of Hearings and Appeals, located in room 1E–234, 1000 Independence Avenue, SW., Washington, DC 20585. If commentors express sufficient interest in presenting their views orally, the DOE will convene a public hearing. In the event we determine to hold a hearing, notice will be given in the **Federal Register.**

Dated: April 30, 1990.

George B. Breznay,

Director, Office of Hearings and Appeals.

April 30, 1990.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Names of Firm: Quintana Energy Corporation., Quintana Refinery Co., Quintana Petrochemical Company.

Date of Filing: April 27, 1989.

Case Number: KEF–0131.

On April 27, 1989, the Economic Regulatory Administration (ERA) filed a Petition with the Office of Hearings and Appears (OHA) of the Department of energy (DOE) requesting that the OHA formulate and implement procedures for distributing funds obtained through the settlement of enforcement proceedings between Quintana Energy Corporation, Quintana Refinery Co. and Quintana Petrochemical Company (hereinafter referred to collectively as Quintana) and the DOE. 10 CFR part 205, subpart V. The Consent Order also settles Quintana's potential liability as a joint venturer in the Quintana-Howell Joint Venture (QHJV)

I. Background

Quintana was engaged in, among other things, the production, importation, refining and sale of crude oil and refined petroleum products during the period of January 1, 1973

through January 27, 1981. Quintana was a "refiner", "reseller" and "producer" as those terms are defined by the federal petroleum price and allocation regulations and subject to the jurisdiction of the DOE. The ERA conducted an audit of Quintana's compliance with the Mandatory Petroleum Price Regulations during the period January 1978 through December 1980. As a result of this audit, the ERA issued a Proposed Remedial Order (PRO) to Quintana and the Howell Corporation on June 24, 1988 which alleged that the QHJV misreported its receipt of controlled tier crude oil as uncontrolled crude oil in its entitlements reports in violation of 10 CFR 211.66(b) and (h) and § 205.202.

While Quintana and the DOE disagree with regard to the proper application of the federal petroleum price and allocation regulations to Quintana's and the QHJV's activities, and each maintains that its position is meritorious, in order to settle and finally resolve all civil and administrative claims and disputes between the DOE and Quintana, Quintana and the DOE entered into a Consent Order which became final on March 9, 1989. 54 FR 10039 (March 9, 1989). The Consent Order settles the liability of Quintana regarding all administrative claims and disputes, whether or not previously asserted, between the DOE and Quintana concerning Quintana's (and all of Quintana's affiliates and subsidiaries) compliance with the federal petroleum price and allocation regulations during the period January 1, 1973 through January 27, 1981 (the Consent Order period). The Consent Order also resolves the DOE's claim against Quintana as a joint venture in the QHJV. However, it specifically does not settle the liability of the entity called the QHJV. Consent Order at ¶¶ 203 & 501. The Consent Order specifies that the Howell Corporation, the other joint venturer in the QHJV, would continue to be potentially liable for over $5.4 million, plus nearly $10 million in interest, for its share of violations allegedly committed by the QHJV. *Id.* at ¶ 501. However, because the Consent Order resolves the DOE's claim against Quintana as a joint venturer in the QHJV, we propose that purchasers of covered products from the QHJV be eligible to apply for refunds in this proceeding. Execution of the Consent Order constituted neighter an admission by Quintana nor a finding by the DOE that Quintana violated any statute or regulation. Consent Order at ¶ 504.

Pursuant to the Consent Order, Quintana agreed to pay to the DOE the amount of $3,800,000 (the Consent Order funds). The Consent Order funds have been placed in an interest-bearing escrow account maintained by the Department of the Treasury for ultimate distribution by the DOE. This Proposed Decision and Order sets forth the OHA's tentative plan for distributing these funds to qualified purchasers of Quintana's and/or the QHJV's covered petroleum products.

II. Proposed Refund Procedures

As we indicated above, the Consent Order settles:

> all pending and potential civil and administrative claims, whether or not known, demands, liabilities, causes of action or other proceedings by the DOE against Quintana regarding Quintana's compliance with and obligations under the federal petroleum price and allocation regulations during the period covered by this Consent Order, whether or not heretofore raised by an issue letter, Notice of Probable Violation, Notice of Proposed Disallowance, Proposal Remedial Order, Remedial Order, action in court or otherwise, including DOE's claim against Quintana as a joint venturer in the Quintana-Howell Joint Venture, are resolved and extinguished as to Quintana by this Consent Order.

Consent Order at ¶ 501. The phrase federal petroleum price and allocation regulations is defined by the Consent Order as:

> all statutory requirements and administrative regulations and orders regarding the pricing and allocation of crude oil, refined petroleum products, natural gas liquids, and natural gas liquid products, including the entitlements and mandatory oil imports programs, administered by the DOE. The federal petroleum price and allocation regulations include (without limitation) the pricing, allocation, reporting, certification, and recordkeeping requirements imposed by or under the Economic Stabilization Act of 1970, the Emergency Petroleum Allocation Act of 1973, the Federal Energy Administration Act of 1974, Presidential Proclamation 3279, and all applicable DOE regulations codified in 6 C.F.R. parts 130 and 150 and 10 CFR parts 205, 210, 211, 212 and 213, and all rules, rulings, guidelines, interpretations, clarifications, manuals, decisions, orders, notices, forms, and subpoenas relating to the pricing and allocation of petroleum products.

Consent Order at ¶ 203.[1] This language provides for a global settlement, and was therefore intended to absolve Quintana of any potential liability for violations of the regulations governing crude oil and refined products committed by either Quintana or the QHJV. The Consent Order provides no specific guidance regarding the allocation of the Consent Order funds between refined products and crude oil. However, the Consent Order clearly absolves Quintana of liability for undiscovered violations of the regulations governing the pricing of refined petroleum products, and based upon our experience in these matters, we believe that it is likely that the firms had significant exposure in this area. In addition, the June 24, 1988 PRO does allege violations regarding the QHJV's reporting of crude oil on its entitlements reports. Therefore, based upon our past experience, we believe that it is reasonable to allocate 25 per cent of the Consent Order funds to the crude oil pool for these alleged crude oil violations.

A. Distribution of the Quintana Crude Oil Funds

We proposed that the Quintana and QHJV crude oil monies, $950,000, plus interest, be disbursed in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases (MSRP), 51 FR 27899 (August 4, 1986), using the procedures described in *New York Petroleum, Inc.*, 18 DOE ¶ 85,435 (1988).[2] Up to 20 per cent of those funds, $190,000, will be distributed to injured parties in the DOE's Subpart V crude oil refund proceeding. Refunds to eligible claimants in that proceeding will be based on a per-gallon refund amount derived by dividing the sum of all crude oil overcharge monies in escrow by the total U.S. consumption of petroleum products during the period of federal petroleum price controls.[3] The principal volumetric refund amount associated with the Quintana and QHJV crude oil funds is $0.000000470 per gallon. For further information concerning application procedures in the Subpart V crude oil proceeding, see *Bi-Petro, Inc.*, 20 DOE ¶ 85,071 (1990).

[1] Quintana has assured the OHA that neither it nor the QHJV sold natural gas liquids or natural gas liquid products. *See* Record of Telephone Conversation between Richard McKee, Manager, Internal Audit, Quintana Petroleum Corporation, and Raymond P. Rayner, Jr., OHA Attorney Advisor (February 27, 1990); Letter from Richard McKee to Raymond P. Rayner, Jr., (March 5, 1990); Record of Telephone Conversation between Richard McKee and Raymond P. Rayner, Jr. (April 6, 1990).

[2] Shortly after issuance of the MSRP, the OHA announced its intention to apply the MSRP in all Subpart V proceedings involving alleged crude oil violations and solicited comments concerning the refund procedures. 51 FR 29689 (August 20, 1986). On April 10, 1987, the OHA issued a Notice analyzing the comments and setting forth final procedures regarding applications for crude oil refunds. 52 Fed. Reg. 11737 (April 10, 1987).

[3] It is estimated that 2,020,997,335,000 gallons of petroleum products were consumed in the United States during the period August 1973 through January 1981. *Mountain Fuel Supply Company*, 14 DOE ¶ 85,475 at 88,868 n. 4. (1986).

Under the terms of the MSRP, we propose that 80 percent of the Quintana and QHJV crude oil funds, $760,000, plus interest, as well as any portion of the above-mentioned 20 per cent reserve which is not distributed, be divided equally between the states and federal government for indirect restitution. Refunds to the states will be in proportion to the consumption of petroleum products in each state during the period of price controls. *E.g., id.*, at 88,142–143.

B. Eligibility for Refunds from the Refined Product Funds

The settlement amount of $2,850,000, plus accrued interest, will be available for distribution to purchasers of Quintana's and/or the QHJV's, refined petroleum products during the period January 1, 1973 through the date when the specific product claimed was decontrolled.[4]

C. Calculation of Refund Amount

We proposed adopting a volumetric method to apportion the Quintana escrow account. We will derive the volumetric figure by dividing the $2,850,000 received from Quintana by the total volume of covered products sold by Quintana and the QHJV during the period from January 1, 1973 through January 27, 1981. This yields a volumetric refund amount of $.002364 per gallon, exclusive of interest.[5] This method is based upon the presumption that the alleged overcharges were spread equally over all gallons of covered products sold by Quintana and/or the QHJV during the period when the refined products that it sold were controlled.[6]

Under the volumetric aproach, an eligible claimant will receive a refund equal to the number of gallons of covered products that it purchased from Quintan and/or the QHJV from the beginning of the Consent Order period until the last day that the products claimed were controlled, multiplied by the per gallon volumetric amount for this proceeding. In addition, each successful claimant will receive a pro rata portion of the interest that has accrued on the Quintana refined product funds since the date of remittance.

As in previous cases, we will establish a minimum amount of $15 for refund claims. *E.G., Uban Oil Co.*, 9 DOE ¶ 82,541 at 85,225 (1982) (*Uban*).

1. Showing of Injury. We propose that each claimant will be required to document its purchases of Quintana's and/or the QHJV's covered products. In addition, we propose to require an applicant to demonstrate that it was injured by the alleged overcharges. In order to demonstrate that it did not subsequently raise its prices and thereby recover the increased costs associated with Quintana's and/or the QHJV's alleged overcharges, a claimant will have to show that it maintained banks of unrecovered product costs. We are willing to accept information establishing with reasonable likelihood that a claimant had banks. *Seminole Refining, Inc.*, 12 DOE ¶ 85,188 (1985); *see also State Oil Corp.* 12 DOE ¶ 85,197 (1985. In order to demonstrate injury, a claimant must also show that market conditions would not permit it to pass through those increased costs to its customers. *E.g., American Pacific International*, 14 DOE ¶ 85,158 at 88,295 (1986).

2. Small Claims Presumption. We also propose to adopt a presumption, as have in many cases, that purchasers seeking refunds of $5,000 or less were injured by Quintana's and/or the QHJV's pricing practices. *Uban*, 9 DOE ¶ 82,541 (1982); *see also Marion Corp.*, 12 DOE ¶ 85,014 (1984). Under this small claims presumption, an applicant seeking a total refund of $5,000 or less will not be required to make a detailed demonstration of injury. Such an applicant need only document its purchase volume of Quintana and/or QHJV covered products.

3. End-Users. We propose to adopt the presumption that end-users, i.e. ultimate consumers, whose businesses are unrelated to the petroleum industry, were injured by Quintana's and/or the QHJV's alleged overcharges. *Id.* at 88,030; *see also Thornton Oil Corp.*, 12 DOE ¶ 85,112 (1984). We propose that end-users of Quintana's and/or the QHJV's refined products need only document their purchase volumes of Quintana's and/or the QHJV's covered products to make a sufficient showing of injury.

4. Regulated Firms and Cooperatives. We propose that claimants whose prices for goods and services are regulated by a government agency (such as a public utility), or by the terms of a cooperative agreement, will be presumed to have absorbed the alleged overcharges. Accordingly, such claimants need only submit documentation of the volume of covered products purchased by them, that were used by themselves or, in the case of cooperatives, sold to their members in order to receive a full volumetric refund. However, regulated firms or cooperatives will be required to certify that they will pass any refund on to their customers or member-customers, provide us with a full explanation of how they plan to accomplish the restitution, and certify that they will notify the appropriate regulatory body or membership group of their receipt of the refund. *Marathon Petroleum Co.*, 14 DOE ¶ 85,269 at 88,514 (1986); *see also Office of Special Counsel*, 9 DOE ¶ 82,538 at 85,203 (1982). We will not require a public utility seeking a refund of $5,000 or less to submit the above referenced certifications and explanation. Sales of covered products by cooperatives to non-members will be treated in the same manner as sales by other resellers or retailers.

5. Indirect Purchasers. We propose that firms which made indirect purchases of Quintana's and/or the QHJV's covered products may also apply for refunds. If an applicant did not purchase directly from Quintana and/or the QHJV, but believes that covered products it purchased from another firm were originally purchased from Quintana and/or the QHJV, the applicant must establish its basis for that belief and identify the reseller from whom the products were purchased. Indirect purchasers who either fall within a class of applicant whose injury is presumed, or who can prove injury, may be eligible for a refund if the reseller of Quintana and/or QHJV products passed through Quintana's and/or the QHJV's alleged overcharges to its own customers. *E.g., Dorchester Gas Corp.*, 14 DOE ¶ 85,240 at 88,451 (1986).

6. Spot Purchasers. We propose to adopt the rebuttable presumption that a claimant who made only spot purchases from Quintana and/or the QHJV was not injured as a result of those purchases. A claimant is a spot purchaser if it made only sporadic purchases of significant volumes of Quintana's and/or the QHJV's covered products. Accordingly, a spot purchaser claimant must submit specific and detailed evidence to rebut the spot purchased claimant must submit specific and detailed evidence to rebut the spot purchaser presumption and to establish

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[4] For example, middle distillates (such as No. 2 fuel oil) were decontrolled on July 1, 1976. Therefore, no claim can be made for middle distillates purchased from Quintana and/or the QHJV after June 30, 1976. 41 FR 24516 (June 16, 1976).

[5] Quintana and the QHJV sold a total of 1,205,266,699 gallons of covered products during the period from January 1, 1973 through January 27, 1981.

[6] Nevertheless, we realize that the impact on an individual claimant may have been greater than the volumetric amount. We therefore propose that the volumetric presumption will be rebuttable, and we will allow a claimant to submit evidence detailing the specific overcharges that it incurred in order to be eligible for a larger refund. *e.g., Standard Oil Co./Army and Air Force Exchange Service*, 12 DOE ¶ 85,015 (1984).

the extent to which it was injured as a result of its spot purchases from Quintana and/or the QHJV. *E.g., Office of Enforcement*, 8 DOE ¶ 82,597 at 85,396–97 (1981).

7. Applicants Seeking Refunds Based on Allocation Claims. We also recognize that, while the Consent Order makes no allegation of known allocation violations, we may receive claims alleging Quintana's and/or the QHJV's failure to furnish petroleum products that it was obliged to supply under the DOE allocation regulations that became effective in January 1974. *See* 10 CFR part 211. Such claims could be based on the Consent Order's broad language regarding the matters settled. *See* section II above. We propose that any such application be evaluated with reference to the standards set forth in subpart V implementation decisions such as *Office of Special Counsel*, 10 DOE ¶ 85,048 at 88,220 (1982), and refund application cases such as *Mobil Oil Corp./Reynolds Industries, Inc.*, 17 DOE ¶ 85,608 (1988), *Marathon Petroleum Corp./Research Fuels, Inc.*, 19 DOE ¶ 85,575 (1989), action for review pending, CA–3–89–2983–G (N.D. Tex. filed Nov. 22, 1989). These standards generally require an allocation claimant to demonstrate the existence of a supplier/purchaser relationship with the Consent Order firm and the likelihood that the Consent Order firm failed to furnish petroleum products that it was obliged to supply to the claimant under 10 CFR part 211. In addition, the claimant should provide evidence that it sought redress from the alleged allocation violation. Finally, the claimant must establish that it was injured and document the extent of the injury.

In our evaluation of whether allocation claims meet these standards, we will consider various factors. For example, we will seek to obtain as much information as possible about the DOE's treatment of complaints made to it by the claimant. We will also look at any affirmative defenses that Quintana and/or the QHJV may have had to the alleged allocation violation. *E.g., id.* In assessing an allocation claimant's injury, we will evaluate the effect of the alleged allocation violation on its entire business operations with particular reference to the amount of product that it received from suppliers other than Quintana and/or the QHJV. In determining the amount of an allocation refund, we will utilize any information that may be available regarding the amount of the Quintana and/or the QHJV allocation violations in general and regarding the specific allocation violation alleged by the claimants. Finally, since the Consent Order reflects a negotiated compromise of the issues involved in an enforcement proceeding against Quintana and/or the QHJV, as well as potential unknown violations, and the Consent Order amount is therefore less than Quintana's and/or the QHJV's potential liability, we will pro rate any allocation refunds that would otherwise be disproportionately large in relation to the Consent Order fund. *Cf. Amtel, Inc./Whitco, Inc.*, 19 DOE ¶ 85,319 (1989).

III. Distribution of Refunds Remaining after Consideration of All Refined Product Refund Applications

In the event that money remains after all meritorious refund applications have been processed, the funds in the Quintana refined products escrow account will be disbursed in accordance with the provisions of the Petroleum Overcharge and Distribution Act of 1986 (PODRA). 15 U.S.C.A. §§ 4501–4507 (West Supp. 1989).

It Is Therefore Ordered That: The refund amount remitted to the Department of Energy by Quintana Energy Corporation, Quintana Refinery Co. and Quintana Petrochemical Company pursuant to the Consent Order finalized on March 9, 1989 will be distributed in accordance with the foregoing Decision.

[FR Doc. 90–10568 Filed 5–4–90; 8:45 am]

BILLING CODE 6450–01–M

Proposed Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of proposed implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the proposed procedures for disbursement of $77,500, plus accrued interest, obtained by the DOE under the terms of a Remedial Order issued to Gasoline Marketers of America (GMA), and $45,534, plus accrued interest, obtained by the DOE under the terms of a Consent Order entered into by the DOE and Mr. Hadley Paul, owner of Paul Investments, Inc. (Paul). The funds will be available to customers who purchased motor gasoline from GMA during the audit period March 1, 1979 through August 30, 1979, and to customers who purchased motor gasoline from Paul during the audit period March 1, 1979 through December 31, 1979.

DATE AND ADDRESS: Comments must be filed in duplicate on June 6, 1990 and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All comments should conspicuously display a reference to the applicable Case Number: KEF–0138 (GMA), or LEF–0006 (Paul).

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–2860.

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision sets forth the procedures that the DOE has tentatively formulated to distribute funds obtained from GMA and Paul. The funds are being held in interest-bearing escrow accounts pending distribution by the DOE.

The Proposed Decision sets forth the procedures and standards that the DOE has tentatively formulated to distribute the escrow account funded by GMA pursuant to a Remedial Order and the escrow account funded by Paul pursuant to a Consent Order. The DOE has tentatively established procedures under which customers who purchased GMA or Paul motor gasoline during the audit periods set forth at the beginning of this notice may file claims for refunds.

Applications for Refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to provide two copies of their submissions. Comments must be submitted within 30 days of publication of this notice in the Federal Register and should be sent to the address set forth at the beginning of this notice. All comments received in this proceeding will be available for public inspection between the hours of 1 p.m. and 5 p.m., Monday through Friday, except Federal holidays, in the Public Reference room of the Office of Hearings and Appeals, located in room 1E–234, 1000 Independence Avenue, SW., Washington, DC 20585.

Dated: May 1, 1990.

George B. Breznay,

Director, Office of Hearings and Appeals.

May 1, 1990.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Names of Firms: Gasoline Marketers of America, Paul Investments, Inc.

Dates of Filing: July 13, 1989, December 21, 1989.

Case Numbers: KEF–0138, LEF–0006.

In accordance with the procedural regulations of the Department of Energy (DOE), 10 CFR part 205, subpart V, the Economic Regulatory Administration (ERA) of the DOE filed petitions for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA) on July 13, 1989 and December 21, 1989. In those petitions, the ERA requests that the OHA formulate and implement procedures for the distribution of funds received from Gasoline Marketers of America (GMA) and Mr. Hadley Paul, former president of Paul Investments, Inc. (Paul).

I. Background

Each of these firms was a "reseller-retailer" of motor gasoline as that term was defined in 10 CFR 212.31. GMA is located in Chatham, New Jersey, and Paul is located in San Antonio, Texas. An ERA audit of each firm's records revealed possible violations of the Mandatory Petroleum Price Regulations, 10 CFR part 212, subpart F.

The ERA audit of GMA alleged that during the audit period March 1, 1979 through August 30, 1979 the firm committed possible pricing violations amounting to $841,395.66 with respect to its sales of motor gasoline to 33 retailers, 13 wholesale-resellers and one bulk-purchaser.[1] In order to obtain restitution for these alleged overcharges, the ERA issued a Proposed Remedial Order (PRO) to GMA on August 13, 1982. On September 30, 1983, the DOE issued the PRO as a final Remedial Order. *Gasoline Marketers of America,* 11 DOE ¶ 83,013 (1983). On January 26, 1989, the United States Bankruptcy Court for the District of New Jersey, which had jurisdiction over a bankruptcy petition previously filed by GMA, approved an agreement between GMA and DOE under which the DOE's claim was limited to $77,500 in full settlement of the remedial order proceeding. This amount was received by the DOE on June 14, 1989, and deposited into an interest bearing escrow account for ultimate distribution by the DOE.

The ERA audit of Paul revealed possible pricing violations amounting to $480,364.41 with respect to Paul's sales of regular and unleaded motor gasoline to nine retailers and four resellers during the audit period March 1, 1979 through December 31, 1979. In order to settle all claims and disputes between Paul and the DOE regarding the firm's sales of motor gasoline during the audit period, Paul and the DOE entered into a Consent Order on February 13, 1985 which directed Paul to remit $50,000 to the DOE.[2] As a result of Paul's financial difficulties, the settlement amount was subsequently limited by ERA to $45,534, which was paid in full as of November 13, 1989.

This Proposed Decision concerns the distribution of the GMA and Paul settlement funds, plus interest which has accrued on both escrow accounts.

II. Jurisdiction

The procedural regulations of the DOE set forth general guidelines by which the OHA may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR part 205, subpart V. The DOE policy is to use the subpart V process to distribute such funds. For a more detailed discussion of subpart V and the authority of the OHA to fashion procedures to distribute refunds obtained as part of settlement agreements, *see Office of Enforcement,* 9 DOE ¶ 82,553 (1982); *Office of Enforcement,* 9 DOE ¶ 82,508 (1981); *Office of Enforcement,* 8 DOE ¶ 82,597 (1981) *Vickers).*

We have considered the petitions involving the funds received from GMA and Paul and have determined that a subpart V proceeding is an appropriate mechanism for distributing the settlement funds. We will therefore grant the ERA's petitions and assume jurisdiction over these funds.

III. Proposed Refund Procedures

Our experience with subpart V cases leads us to believe that the distribution of refunds in this proceeding should take place in two stages. In the first stage, we will attempt to provide refunds to identified purchasers of motor gasoline who may have been injured by GMA's or Paul's pricing practices. If any funds remain after all meritorious first-stage claims have been paid, they will be distributed in accordance with the Petroleum Overcharge Distribution and Restitution Act of 1986, Pub. L. No. 99–509, title III, reprinted in Fed. Energy Guidelines ¶¶ 11,700–11,709.

A. Refund Claimants

We propose that, in order to be eligible for a refund, an applicant must establish that it was injured as a result of GMA's or Paul's overcharges. *See* 10 CFR § 205.280. As previously stated, GMA sold motor gasoline to retail and wholesale customers and to one bulk purchaser. Paul sold motor gasoline to retailers and resellers. Lists of identified customers, together with schedules of the amounts they were allegedly overcharged, were attached to the PRO issued to GMA and to the Consent Order entered into by Paul. The firms of these lists, who constitute the potential refund claimants in this proceeding, are set forth in Appendices A and B to this Decision. We propose to accept refund applications from the customers identified in the Appendices who were injured by GMA's or Paul's pricing practices.

1. Showing of Injury. Claimants who resold GMA or Paul motor gasoline (all of the identified customers except one) and who do not accept the small claims presumption described below, will be required to demonstrate that they were injured by GMA's or Paul's alleged overcharges.[3] To make this showing, a reseller applicant (including retailers and refiners) will generally be required to show that at the time it purchased motor gasoline from GMA or Paul, market conditions would not permit it to increase its prices to pass through to its customers the additional cost associated with the overcharges. *See Gulf Oil Corp./Thermagas, Inc.,* 18 DOE ¶ 85,885 (1989); *Plaquemines Oil Sales Corp.,* 17 DOE 85,059 (1988) (*Plaquemines.*). This showing may be made in a competitive disadvantage analysis, which compares the price paid by the applicant for motor gasoline purchased from the settlement firm with the average market price for the product. In order to demonstrate that it did not subsequently recover the increased costs associated with the alleged overcharges by raising its prices, a reseller must also show, through credible, firm-specific data, that it had a

[1] In arriving at this total overcharge amount in its audit workpapers, the ERA made a mathematical error of $1.55. The correct sum of the individual overcharge amounts is $841,394.11.

[2] The Consent Order resolved all issues involved in a PRO that the ERA had issued to Paul on September 21, 1982. *See* March 4, 1985 Dismissal Letter from Thomas L. Wieker, Deputy Director, OHA, to the attorneys for Paul and ERA (Case No. HRO–0096).

[3] In the GMA proceeding, there appears to be one potential claimant who is an end user (Energy Engineering Inc.). We propose to adopt a presumption of injury for that firm and any other end-user we have not identified as such. *See, e.g., Marion Corp.,* 12 DOE ¶ 85–014 (1984) (*Marion*); *Thornton Oil Corp.,* 12 DOE ¶ 85,112 (1984).

bank of unrecovered increased costs beginning in the first month of the period for which a refund is claimed through the date when the "banking" regulations were terminated.[4]

We realize that some applicants may be unable to provide actual, contemporaneous cost bank records. We therefore are willing to accept reasonable approximations of cost banks calculated in a manner consistent with the price regulations. *See Plaquemines; see also Plaquemines/Delta Marina*, 17 DOE ¶ 85,415 (1988). The maintenance of a bank does not, however, automatically establish injury. *See Tenneco Oil Co./Chevron U.S.A., Inc.*, 10 DOE ¶ 85,014 (1982).

2. Small Claims Presumption. We also propose to adopt a small claims presumption of injury which has been used in many previous special refund proceedings. We recognize that making a detailed showing of injury may be too complicated and burdensome for resellers who purchased relatively small amounts of motor gasoline from GMA or Paul. For example, such firms may have limited accounting and data-retrieval capabilities and therefore may be unable to produce the records necessary to prove that they did not pass the alleged overcharges through to their own customers. We also are concerned that the cost to the applicant and to the government of compiling and analyzing information sufficient to make a detailed showing of injury not exceed the amount of the refund to be gained. *See, e.g., Marion.* Therefore, we propose that any reseller whose "allocable share" (as defined in part III B, *infra.*) is $5,000 or less need only document its purchase volumes rather than make a detailed showing of injury in order to be eligible to receive a refund.[5]

3. Spot-Purchasers. We also propose to adopt a rebuttable presumption that resellers which made only spot purchases of GMA or Paul motor gasoline have suffered no injury. Spot purchasers tend to have considerable discretion in where and when to make purchases and therefore would not have made spot purchases of GMA or Paul product at increased prices unless they were able to pass through the full amount of the overcharges to their own customers. *See Vickers*, 8 DOE at 85,396–97. Accordingly, any reseller claimant who was a spot purchaser must submit evidence to rebut the spot purchaser presumption and establish the extent to which it was injured by the spot purchase(s).

B. Allocation of Consent Order Funds

In most subpart V proceedings, we have distributed consent order funds to successful claimants based upon a volumetric approach which allocates a portion of the consent order fund to each gallon of product which the applicant purchased from the consent order firm. However, in certain proceedings, we have utilized the material gathered in the ERA audit to allocate the consent order funds in a way which makes the refunds correspond more closely to the alleged overcharges that were experienced. *See, e.g., Plaquemines.* Those proceedings involved an audit which was relatively narrow in scope, a consent order or other type of settlement agreement which was limited to the same products and time period as the audit, and a relatively small number of customers, all or most of whom were identified in the enforcement proceeding or settlement documents.

Because these factors are present in these two proceedings, we propose to use this approach to allocate the GMA and Paul settlement funds. We recognize that the audit files and other relevant enforcement and settlement documents do not provide conclusive evidence as to the identity of the refund recipients or the amount of money that they should receive. Nevertheless, these documents can be used for guidance in fashioning a refund allocation plan that is more equitable than a plan based on the volumetric approach. Therefore, we propose to use the distribution of the alleged overcharges set forth in the attachments to the GMA PRO and the Paul Consent Order to allocate the settlement funds. (These figures are set forth in Appendices A and B, respectively.) As indicated above, the escrow funds resulted from negotiated settlements and are substantially less than the total overcharge amounts in the GMA Remedial Order and Paul PRO. Accordingly, we propose that each purchaser's maximum potential refund, or allocable share of the settlement fund, will be a prorated amount of the alleged overcharges experienced by that firm. In the case of GMA's customers, the proposed allocable shares listed in Appendix A are equivalent to approximately 9.2 percent of the alleged overcharge amounts ($77,500 settlement amount dividend by the $841,394.11 alleged overcharge amount). The proposed allocable shares of Paul's customers, as listed in Appendix B, are equivalent to 9.47 percent of the alleged overcharge amounts ($45,534 settlement amount dividend by $480,364.41 alleged overcharge amount). In addition, a successful claimant will receive a pro rata share of the interest that has accrued in the GMA and Paul escrow accounts.

IV. Conclusion

Refund applications in these proceedings should not be filed until issuance of a final Decision and Order. Detailed procedures for filing applications will be provided in that final Decision.

It Is Therefore Ordered That: The refund amount remitted to the Department of Energy by Gasoline Marketers of America pursuant to an order of the United States Bankruptcy Court for the District of New Jersey on January 26, 1989, and the refund amount remitted to the Department of Energy by Paul Investments, Inc. pursuant to a Consent Order entered into by Paul and the DOE on February 13, 1985, will be distributed in accordance with the foregoing Decision.

Appendix A

Schedule of Potential Refunds (GMA Customers)

Customer name	Alleged overcharge amount	Allocable share
Retailers:		
S & L Gas	$25,963.13	$2,391
Public Auto Service, a/k/a Persuad's Auto Svc	8,885.76	818
Balonze Service Station	17,136.03	1,578
Philipsburg Chevron	28,983.76	2,670
Steve Cornfield a/k/a Westwood Public	5,645.35	520
M & F Auto	21,672.08	1,996
Rockaway Public a/k/a H & L Auto Repair	7,681.98	708
J. Schmidt #132, a/k/a Ridgedale Public, a/k/a Accurate Auto	29,594.28	2,726
Forrest Ave. 66 Corp	3,033.95	279
5'Gs Corp	3,338.32	308
West Orange Public, a/k/a Frank & Sal Corvino	6,163.78	568
Alfred Fichter, a/k/a Nikki Sales Ltd., Inc	16,630.56	1,532
Luis Clave, a/k/a Condoritos Auto	2,181.92	201
Summit Public	16,350.55	1,506
Pete Scavone, a/k/a Pete's Service Station	18,454.97	1,700
James Refee, a/k/a East Orange Public	4,771.66	440
James Doolan #147	14,926.40	1,375

[4] Retailers and most resellers were permitted to utilize cost banks for motor gasoline pricing purposes only until July 15, 1979, and April 30, 1980, respectively. 42 FR 42542 (July 19, 1979); 45 FR 29546 (May 2, 1980). Therefore, retailer and reseller applicants will not be required to submit cost bank data subsequent to those dates.

[5] As in prior special refund proceedings, in determining the "allocable share" of an applicant, we propose to combine the claims of all affiliated entities. *See Exxon Corp./Tate Oil Co.*, 18 DOE ¶ 85,460 (1989); *see also Marathon Oil Co./Swifty Oil Co.*, 15 DOE ¶ 85,347 (1987). A reseller applicant whose allocable share is in excess of $5,000 may choose to limit its claim to $5,000 in lieu of making a detailed showing of injury.

Customer name	Alleged overcharge amount	Allocable share
Sigmor, Inc., a/k/a Autotronics	28,916.87	2,664
Jefferson Service	511.11	47
George Matteslni	196.92	18
Remote Services	3,626.11	334
Ike's Car Wash #016	303.78	28
Walter Tavadowski	273.78	25
Harry's Disc. Gas & Tire	4,344.35	400
Radolph Town & Country #115	26,914.49	2,479
Conwell Heights, PA, a/k/a Town & Country, PA	1,250.76	115
Bill's Town & Country	27,268.19	2,512
Town & Country Marketing	21,384.83	1,970
Ledgewood Town & Country #102	52,948.88	4,877
Livingston Town & Country #119	56,125.91	5,170
Parlin Town & Country #134	22,370.59	2,061
Rockaway Town & Country #110	8,738.73	805
Tom's River Town & Country	1,091.75	101
Wholesalers:		
Cibro Gasoline Corp	222,364.98	20,482
White Meadow Petroleum	2,990.35	275
Cedar Hill Oil	1,383.47	127
MacArthur Petroleum	460.70	42
Queen City Fuel	700.05	65
TEFCO	1,097.14	101
Rappaport Oil Co	2,607.21	240
General Oil Dist	15,353.89	1,414
Good Hope Refineries	34,741.04	3,200
Wykoff Oil Co	3,346.89	308
Affusco's Plumb. & Oil	581.23	54
M. Spiegel & Son Oil Corp	1,492.53	137
Bolkema Fuel Co	3,065.64	282
Wholesale Bulk:		
Energy Engineering Inc	63,525.46	5,851
Totals	841,394.11	77,500

Appendix B

Schedule of Potential Refunds (Paul Customers)

Customer name	Alleged overcharge amount	Allocable share
Alkek Oil Co	$7,639.18	$724
Ameroil	10,617.24	1,006
Enmark	10,818.71	1,025
Independent Enterprises	1,631.28	155
Harry Tappan	19,838.00	1,881
Herman Miller	24,583.83	2,330
Millman Oil Co	1,550.11	147
National Convenience Stores	41,704.82	3,953
Neal Fina	367.61	35
Senco	230,383.24	21,838
Sigmor	49,081.33	4,653
Southland, Inc	48,296.84	4,578
Tolson Oil Co	33,852.22	3,209
Totals	480,364.41	45,534

[FR Doc. 90-10570 Filed 5-4-90; 8:45 am]

BILLING CODE 6450-01-M

Proposed Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of proposed implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the proposed procedures for disbursement of $221.64 plus accrued interest obtained by the DOE under the terms of a Remedial Order issued to Green Oil Company (Green). The balance of the Green remdial order fund will be deposited in the U.S. Treasury for use by the states in energy conservation programs in accordance with section 3003(d) of the Petroleum Overcharge Distribution and Restitution Act of 1986.

DATE AND ADDRESS: Comments must be filed in duplicate on June 6, 1990 and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All comments should display a reference to Case Number LEF-0013.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-286.

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision and Order sets forth the procedures that the DOE has tentatively formulated to distribute funds obtained from Green pursuant to a Remedial Order issued to the firm on October 24, 1978. The funds are being held in an interest-bearing escrow account maintained at the U.S. Treasury.

In accordance with the Remedial Order, Green made direct refunds to its customers. The DOE has tentatively concluded that the balance of the Green remedial order fund is in excess of the amount needed to make restitution to Green's injured customers and, therefore, should be deposited in the U.S. Treasury for use by the states in energy conservation programs in accordance with section 3003(d) of the Petroleum Overcharge Distribution and Restitution Act of 1986.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are required to provide two copies of their submissions. Comments must be submitted within 30 days of publication of this notice in the Federal Register and should be sent to the address set fourth at the beginning of this notice. All comments received in this proceeding will be available for public inspection between the hours of 1 p.m. and 5 p.m., Monday through Friday, except Federal holidays, in the Public Reference room of the Office of Hearings and Appeals, located in room 1E-234, 1000 Independence Avenue, SW., Washington, DC 20585.

Dated: May 1, 1990.

George B. Breznay,

Director, Office of Hearings and Appeals.

May 1, 1990.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Name of Firm: Green Oil Company.
Date of Filing: February 23, 1990.
Case Number: LEF-0013.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special procedures to distribute funds received as a result of an enforcement proceeding in order to remedy the effects of actual or alleged violations of the DOE regulations. *See* 10 CFR part 205, subpart V. On February 23, 1990, the ERA filed a Petition in connection with a Remedial Order issued by the DOE to Green Oil Company (Green).

I. Background

Green was a "retailer" of propane as that term was defined in 10 CFR 212.31 and operated two retail outlets in Letcher, South Dakota. A DOE audit of Green's records revealed that during certain periods between November 1, 1973 and August 31, 1975, Green committed possible price violations with respect to its retail sales of propane in violation of 10 CFR part 212, subpart F. On April 28, 1978, the ERA issued a Proposed Remedial Order (PRO) to Green alleging that these violations resulted in overcharges to Green's customers in the amount of $17,240.80 plus interest.

On October 24, 1978, the DOE issued the PRO as a final Remedial Order (RO). *Greene Oil Co.*, Case No. DRW-0005. Under the terms of the RO, Green was required to refund $17,240.80 plus interest to its identifiable customers through the issuance of checks or credit memoranda. Based upon an analysis of the firm's financial condition in February 1989, the ERA reduced the

liability under the RO to $5,000. Green has certified to the ERA that refunds or credits have been made to all the identifiable customers that it was able to locate. However, since the firm was unable to contact all of its customers, it could not issue all of the direct refunds. On February 7, 1990, Green remitted to the DOE $221.64 representing the refunds due to customers it was unable to locate. Those funds were deposited into an interest-bearing escrow account maintained at the U.S. Treasury. This Decision and Order proposes procedures to distribute the $221.64 received from Green plus the interest which has accrued on the escrow account.

II. Jurisdication and Authority

The procedural regulations of the DOE set forth general guidelines by which the OHA may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR part 205, subpart V. The DOE policy is to use the Subpart V procees to distribute such funds. For a more detailed discussion of the subpart V authority of the OHA to fashion procedures to distribute funds obtained as part of settlement agreements, *see Office of Enforcement,* 9 DOE ¶ 82,553 (1982), *Office of Enforcement,* 9 DOE ¶ 82,508 (1981); *Office of Enforcement,* 8 DOE ¶ 82,597 (1981).

We have considered the record in the present case and have determined that a subpart V proceeding is an appropriate mechanism for distributing the balance of the Green remedial order fund. We will therefore grant the ERA's petition and assume jurisdiction over this fund.

III. Proposed Refund Procedures

The Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA) requires the Secretary of Energy, through the OHA, to determine the amount of oil overcharge funds held in escrow that is in excess of the amount needed to make restitution to injured parties and make those funds available to state governments for use in specified energy conservation programs. 15 U.S.C. §§ 4501–4507. Generally, this determination occurs after the OHA has made an attempt to locate injured parties and has approved the claims made by firms who have established that they are entitled to refunds. However, in the present case, restitution has been made by the firm directly to identifiable customers of Green who would be eligible for a refund. After reviewing the ERA's records regarding Green's actions in making refunds to the identified customers and its efforts to locate the remaining former customers, we have concluded that no further direct restitution is possible. We therefore believe that no useful purpose would be served by establishing a claims process for the remaining $221.64, and that it would be a wasteful use of resurces to open a claims process. Accordingly, we have tentatively concluded that the $221.64 which Green remitted to the DOE is in excess of the amount that is needed to make restitution to its injured customers. Therefore, we propose that this amount should be deposited in the U.S. Treasury for use by the states in energy conservation programs in accordance with the provisions of PODRA.

It is Therefore Ordered That: The refund amount remitted to the Department of Energy by Green Oil Company pursuant to the Remedial Order issued on October 24, 1978 will be distributed in accordance with the foregoing decision.

[FR Doc. 90–10569 Filed 5–4–90; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[PF–535; FRL–3740–7]

Notice of Filing of Pesticide Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that EPA has received from the Valent U.S.A. Corp. a filing of pesticide petition (PP) 9F3798 for lactofen in or on cotton.

ADDRESSES: By mail, submit written comments to: Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 246, CM #2, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. Written comments must be identified by the document control number, [PF-535]. All written comments filed in response to this notice will be available for public inspection in the Program Management and Support Division office at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Joanne I. Miller, Acting Product Manager (PM) 23, Registration Division (H-7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 237, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-557-1830.

SUPPLEMENTARY INFORMATION: Valent U.S.A. Corp., 1333 North California Blvd., Walnut Creek, CA 94596-8025, has filed with EPA pesticide petition (PP) 9F3798 proposing that 40 CFR 180.432 be amended to establish tolerances for the combined residues of lactofen, 1-carboethoxy, ethyl-5-[2-chloro-4-(trifluoromethyl)phenoxy]-2-nitrobenzoate and its associated metabolites containing the diphenyl ether linkage expressed as lactofen, in or on cottonseed at 0.05 part per million (ppm). The proposed analytical method for determining residues is gas chromatography.

Authority: 7 U.S.C. 136a.

Dated: April 15, 1990.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 90-10549 Filed 5-4-90; 8:45 am]

BILLING CODE 6560-50-D

FEDERAL EMERGENCY MANAGEMENT AGENCY

FEMA REP–13, Guidance on Offsite Emergency Radiation Measurement Systems, Phase 3—Water and Non-Dairy Food Pathway

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of availability of a FEMA guidance document on offsite emergency radiation systems for measurement of the potential radiation dose to the public through the water and non-dairy food pathway in the event of an accident at a commercial nuclear power plant and invitation for comments on the guidance document.

SUMMARY: The document, "Guidance on Offsite Emergency Radiation Measurement Systems, Phase 3—Water and Non-Dairy Food Pathway", FEMA REP–13, dated May 1990, will be

available for public distribution and comment on May 31, 1990. Copies will be distributed to State, local governmental and utility emergency planners with nuclear power plant planning and preparedness responsibilities and to member agencies of the Federal Radiological Preparedness Coordinating Committee for review, comment, and interim use.

As the lead Federal Agency under the FEMA rule 44 CFR part 350, FEMA is responsible for the approval of offsite radiological emergency planning and preparedness around commercial nuclear power plants throughout the United States. This rule provides the regulatory framework through which the Agency evaluates and approves State and local radiological emergency planning and preparedness. Under the FEMA rule 44 CFR part 351, FEMA provides guidance to State and local governments such as FEMA REP–13. This document was developed to elaborate upon the planning standards and evaluation criteria of NUREG–0654/FEMA REP–1, Rev. 1, "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants" and 44 CFR part 350 as related to offsite emergency radiation systems for measurements in the water and non-dairy food pathway. The guidance is intended to assist State, local and utility radiological emergency planners in developing and enhancing radiological emergency planning and preparedness and for FEMA and other Federal agencies to use in evaluating the adequacy of offsite emergency radiation systems for measurement in the water and non-dairy food pathway.

FEMA REP–13 is the third in a series of guidance documents on offsite emergency radiation measurement systems prepared by the Federal Radiological Preparedness Coordinating Committee, Subcommittee on Offsite Emergency Instrumentation for Nuclear incidents. This document provides guidance on the selection and use of radiation instrumentation and methodologies that are currently available for detecting and measuring radioactive contamination, in the event of a nuclear accident at a commercial nuclear power plant, with emphasis on the measurement and evaluation of radionuclides in potable water and non-dairy food to determine the dose commitment to individuals.

The radionuclide concentrations warranting emergency actions for potable water and edible plants are derived from the Food and Drug Administration (FDA) protective action guides. Protective actions and monitoring requirements are discussed in the document. Several alternatives for field monitoring of foodstuffs and water are also presented. However, the recommended procedure for monitoring foodstuffs is field sampling in predetermined areas followed by laboratory analyses. The recommended procedure for monitoring water is collection of samples at water purification plants followed by analyses performed by expereinced technical personnel. Protective action levels recommended by the FDA for water and non-dairy foods are used as the basis for monitoring requirements outlined in FEMA REP–13. Early monitoring will provide data to prevent significantly contaminated water and foods from being processed and distributed and will provide the basis for the most timely emergency response action.

This document is intended for interim use pending publication of a final edition. Comments received by FEMA on this document will be analyzed by the Federal Radiological Preparedness Coordinating Committee, Subcommittee on Offsite Emergency Instrumentation for Nuclear Incidents, and the results of this analysis will be used to develop the final edition of FEMA REP–13. A single copy of this document may be requested by writing FEMA, P.O. Box 70274, Washington, DC 20024. Please request FEMA REP–13, "Guidance on Offsite Emergency Radiation Measurement Systems, Phase 3—Water and Non-Dairy Food pathway".

Comments on this document will be accepted through September 30, 1990, and should be addressed to: Rules Docket Clerk, Federal Emergency Management Agency, room 835, 500 C Street Southwest, Washington, DC 20472.

Dated: April 27, 1990.

For the Federal Emergency Management Agency.

Grant C. Peterson,

Associate Director, State and Local Programs and Support.

[FR Doc. 90–10542 Filed 5–4–90; 8:45 am]

BILLING CODE 6718–20–M

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Privacy Act of 1974; Systems of Records

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Notice of systems of records.

SUMMARY: This notice is being published pursuant to the Privacy Act of 1974, 5 U.S.C. 552a, as amended, in order to make final the systems of records established by the Federal Retirement Thrift Investment Board containing information on individuals, including the Thrift Savings Plan.

EFFECTIVE DATE: May 7, 1990.

FOR FURTHER INFORMATION CONTACT: John J. O'Meara, (202) 523–6367. Federal Retirement Thrift Investment Board, 805 Fifteenth Street NW., Washington, D.C. 20005.

SUPPLEMENTARY INFORMATION: The Federal Retirement Thrift Investment Board was established by Pub. L. No. 99–335 (June 6, 1986), the Federal Employees' Retirement System Act of 1986, 1986 U.S. Code Cong. & Ad. News (100 Stat. 514) (codified principally at 5 U.S.C. 8401–8479), as amended ("FERSA"). Its primary function is to invest the assets of the Thrift Savings Fund and manage the Thrift Savings Plan. The Board is an independent establishment of the Federal government located in Washington, D.C.

The notice set forth herein relates to final systems of records which have been established by the Federal Retirement Thrift Investment Board in accordance with the requirements of its enabling legislation and other laws and regulations pertaining to Federal agencies.

Fifteen systems of records of the Board were published for notice and comment in the **Federal Register** of April 14, 1987, 52 FR 12065–12077. The Board received no comments as to any system except FRTIB–1, Thrift Savings Plan (TSP) Records. Nevertheless, after an initial two years of operation, the Board has decided that it has no continuing need for four of the systems published for comment. Accordingly, the following systems of records are deleted:

FRTIB—2—Personnel Background Investigation Reports
FRTIB—10—Biographical File on Board Employees
FRTIB—13—Recruiting and Placement Records
FRTIB—15—Health Records

The remaining ten systems of records (FRTIB–1 is discussed below) are published below as final. With the exception of FRTIB–1, the systems are published below with minimal change. The numbering has changed because of the deletion of the four previously mentioned systems, and, for some, the system manager has changed.

As for FRTIB–1, TSP Records, the following information is provided. Although the Board has no field offices, many of its records are kept by a separate entity in a physically separate

facility. Pursuant FERSA, the Board has a TSP recordkeeping responsibility (the TSP is similar to section 401(k) plan in the private sector) and that responsibility is performed by contract or interagency agreement. The contractor or other Federal agency may be located outside the Washington, D.C. area. The records maintained for the Board by its recordkeeper are TSP accounts for certain current and former Members of Congress, Justices, judges, magistrates, present and former Federal employees, certain Federal union officials, and others (as set forth in 5 CFR part 1620) who are participants and former participants. TSP accounts maintained by its recordkeeper are subject to the Board's Privacy Act regulations and constitute a Board system of records. At this time, the recordkeeping responsibility is performed under interagency agreement by the TSP Service Office, National Finance Center, Department of Agriculture, New Orleans, LA.

Only one comment was received regarding FRTIB–1, TSP Records. The comment was from a Federal agency requesting that TSP account data be disclosed to employing agencies for the purpose of calculating benefit projections. One routine use was changed to accommodate this suggestion as this information is often requested of employing agencies by participants.

Revisions made to FRTIB–1

After some experience with TSP account records, one other routine use was added, other routine uses were revised without changing substance, some routine uses were deleted, and the record retention period, procedures for notification and access, amendment, and record destruction were revised.

Routine use "d" was added to make clear that a disclosure of a TSP account balance could be made to the Department of Veterans Affairs, the Federal Housing Administration and other financial institutions, at the request of a TSP participant, for an account balance verification for a mortgage application. Interim routine uses "e" and "j" were merged and are now found in routine use "f." Interim routine use "h" (disclosure to the General Accounting Office (GAO)) was deleted as it is already an exemption under 5 U.S.C. 552a(b)(10). Interim routine use "i" was deleted as being too broad. Routine use "u," formerly interim routine use "q," was revised. The interim routine use was considered to be inappropriate.

The three-year record retention period was changed. TSP forms will be kept for 95 years. All other records will be kept indefinitely. The TSP form retention period was significantly increased because of the Board's decision to follow the Employee Retirement Income Security Act (ERISA) guidelines on this issue and because the Board desires to ensure that a TSP participant or his or her survivor (for annuity purposes) will have access to records, in case of a claim of error, until the death of the survivor. Similar lengthy provisions govern the retirement annuity records administered by the U.S. Office of Personnel Management. See 5 U.S.C. 8345(i) and 8466.

Record destruction of hard copies will be accomplished by compacting and burying. Computerized records will be erased by reuse or destruction or will be returned to the employing Federal agency.

Notification, access and amendment request procedures were revised to reflect more accurately the entity which is responsible for the request. Participants must make their requests as set forth in the two charts because of the nature of the flow of information from employing Federal agencies and the nature of the functions of the TSP Service Office as recordkeeper. Those records that are maintained by the employing agency must be corrected at that source, not at the Service Office or the Board. Only those records that reflect Board actions and that may be changed permanently by the Board are submittable to the Board.

Accordingly, interim system notice FRTIB–1, has been revised and is published in final as set forth below.

Federal Retirement Thrift Investment Board.

Dated: April 27, 1990.

Francis X. Cavanaugh,

Executive Director.

Federal Retirement Thrift Investment Board System of Records

Table of Contents

A. Thrift Savings Plan Participation and Account Records.
FRTIB–1 Thrift Savings Plan Records
B. Federal Retirement Thrift Investment Board Administrative Records.
FRTIB–2 General Personnel Records
FRTIB–3 EEO Discrimination Complaint File
FRTIB–4 Adverse Information and Action Records, Disciplinary Records
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FRTIB–7 Consultant and Staff Associate File
FRTIB–8 Board Members File
FRTIB–9 Employee Locator Card Files
FRTIB–10 Grievance Records
FRTIB–11 Financial Disclosure Reports and Outside Business Interest Records

FRTIB–1

SYSTEM NAME:

Thrift Savings Plan Records.

SYSTEM LOCATION:

These records are located at the Thrift Savings Plan (TSP) Service Office, National Finance Center, Department of Agriculture, 13800 Old Gentilly Road, New Orleans, Louisiana. The mailing address is: Head, Thrift Savings Plan Service Office, National Finance Center, P.O. Box 61500, New Orleans, LA 70161–1500. Subsets of these records are located at the System Manager's address. The subsets are: waiver and court order files (including matters involving bankruptcies, child support, alimony and TSP benefit divisions), participant correspondence, loan appeals, interfund transfer appeals and error corrections.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All participants in the Thrift Savings Plan. Participants in the TSP consist of present and former Members of Congress and Federal employees (including the Central Intelligence Agency employees and Foreign Service officers) covered by the Federal Employees' Retirement System Act of 1986, as amended, (FERSA) 5 U.S.C. Chapter 84; all present and former Members of Congress and Federal employees (including the Central Intelligence Agency employees and Foreign Service officers) covered by the Civil Service Retirement System who elect to contribute to the TSP; Supreme Court Justices, Federal judges and magistrates who elect to contribute; certain union officials and other persons described in 5 CFR part 1620.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain the following kinds of information: Thrift Savings Plan Account records of employee and employer contributions; participant's Social Security number, date of birth and home address, retirement code, account earnings and balance; records showing whether a participant is vested; participant-designated beneficiaries, withdrawal information, type of annuity requested, locator information on former spouses and spousal waivers; records of court orders concerning bankruptcies, division of retirement accounts between spouses and garnishment actions for child support or alimony payments against accounts; data on employing agency, servicing payroll office, and servicing personnel office of the participant; the participant's investment status by Fund, information on interfund

transfers and participant loans, and general correspondence with the TSP Service Office.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 8474.

PURPOSE:

The purpose of this sytem of records is to record activity concerning the TSP account of each Plan participant, to communicate with the participant concerning his or her account, and to make certain that he or she receives a correct payment at the time of withdrawal from the Plan.

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

These records and information in these records may be used:

a. To disclose financial data to Federal, State, and local government tax enforcement agencies so that they may enforce applicable tax laws.

b. To disclose to the designated annuity vendor in order to provide TSP participants who have left Federal service with an annuity.

c. To disclose to sponsors of eligible retirement plans for purposes of transferring the funds in the participant's account to an Individual Retirement Account or into another eligible retirement plan.

d. To disclose to the Department of Veterans Affairs (VA) or to the Federal Housing Administration (FHA) or to private financial institutions at the written request of the participant for account balance verification for a mortgage application.

e. To disclose to current and former spouses who have entitlement rights under the Act.

f. When a participant to whom a record pertains dies, to disclose (i) to beneficiaries to that they may exercise their entitlement rights under FERSA, and (ii) to any person possibly entitled in the order of precedence to lump sum benefits, information in the participant's record which might properly be disclosed to the individual, and the name and relationship of any other person whose claim to benefits takes precedence or who is entitled to share the benefits payable.

g. To disclose information to any person who is responsible for the care of the participant to whom a record pertains and who is found by a court to be incompetent or under other legal disability, information necessary to manage the participant's account and to assure payment of benefits to which the participant is entitled.

h. To disclose information to a Congressional office from the record of a participant in response to an inquiry from that Congressional office made at the request of that participant.

i. To disclose to agency payroll or personnel offices in order to calculate benefit projections for individual participants, to calculate error corrections, to reconcile payroll records and otherwise to assure the effective operation of the Thrift Savings Plan.

j. To disclose to the Department of the Treasury information necessary to issue checks from accounts of participants in accordance with withdrawal or loan procedures.

k. To disclose to the Department of Labor and to private sector audit firms so that they may perform audits as provided for in FERSA.

l. To disclose to the Parent Locator Service of the Department of Health and Human Services, upon its request, the present address of a participant, whether a current or former employee, for the purpose of enforcing child support obligations against such individual.

m. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order.

n. To disclose information to the Office of Management and Budget at any stage of the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

o. To disclose to a Federal agency, in response to its request, the present address of a former employee and any other information the agency needs in order to contact the former employee concerning a possible threat to his or her health or safety.

p. To disclose information to the Department of Justice when:

(1) The Board, or any component thereof, or

(2) Any employee of the Board, in his or her official capacity, or

(3) Any employee of the Board, in his or her individual capacity, where the Department of Justice has agreed to represent the employee, or

(4) The United States, where the Board determines that litigation is likely to affect the agency or any of its components,

is a party to litigation or has an interest in such litigation, and the Board determines that use of such records is relevant and necessary to the litigation, provided, however, that in each such case, the Board determines that disclosure of the records to the Department of Justice is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

q. In response to a court subpoena or to appropriate parties engaged in litigation or in preparation of possible litigation such as potential witnesses for the purpose of securing their testimony to courts, magistrates or administrative tribunals, to parties and their attorneys in connection with litigation or settlement of disputes, to individuals seeking information through established discovery procedures in connection with civil, criminal or regulatory proceedings.

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

STORAGE:

These records are maintained on magnetic media, microfiche and in folders.

RETRIEVABILITY:

These records are retrieved by name, Social Security number, and other personal identifiers of the individual to whom they pertain.

SAFEGUARDS:

Hardcopy records are kept in metal file cabinets in a secure facility with access limited to those whose official duties require access. Personnel screening is employed to prevent unauthorized disclosure. Automatic data processing software security mechanisms are used to prevent unauthorized access to the magnetic media.

RETENTION AND DISPOSAL:

All TSP forms are retained for 95 years. All other records are retained indefinitely. Disposal of manual records is by compacting and burying; data on magnetic media are obliterated by destruction or reuse or are returned to the employing agency.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Director, Federal Retirement Thrift Investment Board, 805 Fifteenth Street NW., Washington, DC 20005.

NOTIFICATION PROCEDURE:

Any individual wishing to inquire if this system contains information about him or her must make inquiry in accordance with Chart A below:

CHART A

If you want:	If you are a former employee:	If you are a current employee:
To make inquiry as to whether you are a subject of this system of records.	Call or write TSP Service Office.	Call or write your employing agency in accordance with agency system of records on personnel or payroll records.
Access	Call or write TSP Service Office.	• Call or write your employing agency regarding personnel and payroll records (agency's and participant's contributions, earnings, loan repayments and adjustments to contributions) • Call or write to the TSP Service Office regarding loan status and interfund transfers.
Disclosure history of your TSP account (disclosures to entities other than your employing agency or the Board or auditors).	Write TSP Service Office.	Write TSP Service Office.

The individual must furnish the following information for records to be located and identified:

a. Name, including all former names;

b. Social Security number; and

c. Date of birth (only if writing).

A request to the employing Federal agency may be made in accordance with that agency's Privacy Act regulations or any other existing agency procedures.

RECORD ACCESS PROCEDURE:

Any participant wishing access to his or her records in this system may do so in accordance with Chart A above. A participant must furnish the following information for his or her records to be located and identified:

a. Name, including all former names;

b. Social Security number;

c. Personal Identification Number (PIN) (only if telephoning);

d. Date of birth (only if writing); and

e. If when telephoning, a PIN is unavailable or has been lost, name and address of office in which currently or formerly employed in the Federal service and date of birth.

CONTESTING RECORDS PROCEDURE:

Any participant in the Thrift Savings Plan who wishes to request amendment of his or her records in this system must make such request in accordance with Chart B below. The employing agency or the Board (through the TSP Service Office, its recordkeeper), as the case may be, will follow the procedures set forth in 5 CFR part 1605, Error Correction Regulations, in deciding requests for amendment because of monetary errors.

CHART B

If you want to request amendment of a TSP record and		
The type of record is:	You are a former employee, write to:	You are a current employee, write to:
Personnel or personal records (e.g., age, address or Social Security number).	TSP Service Office.	Your employing agency.
Agency's and participant's contributions, loan repayments and adjustments to contributions.	Your form employing agency.	Your employing agency.
Earnings, interfund transfers and loan prepayments.	TSP Service Office.	TSP Service Office.

The participant must furnish the following information for his or her records to be located and identified:

a. Name, including all former names;

b. Social Security number; and

c. Date of birth.

RECORD SOURCE CATEGORIES:

The information in this system is obtained from the following sources:

a. The individual to whom the information pertains;

b. Agency pay and personnel records;

c. Court orders; or

d. Spouses, former spouses, other family members, beneficiaries, legal guardians, personal representatives (executors, administrators).

FRTIB–2

SYSTEM NAME:

General Personnel Records.

SYSTEM LOCATION:

Federal Retirement Thrift Investment Board, 805 Fifteenth Street, NW., Washington, DC 20005.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system of records consists of a variety of documents relating to personnel actions of the Board and its determinations made about an individual during the course of his or her employment by the Board. These records may contain information about employees and former employees relating to employment, placement, personnel actions, performance considerations and evaluations; training and development activities and plans, background investigations; reference checks; salary history and other personnel matters. It also includes minority group and medical disability designators; records relating to benefits and designation of beneficiary; emergency contact documentation supporting personnel actions or decisions made about an individual; awards and other information relating to the status of the individual either while considered for employment or while employed by the Board.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 8474.

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

Information in these records is used:

a. To provide data for automated personnel records.

b. To provide information to a Federal agency, or any other employer or prospective employer, in response to its request in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decsion on the matter.

c. To request information from a Federal, State or local agency maintaining civil, criminal or other relevant enforcement or other pertinent information, such as licenses, if necessary to obtain relevant information or other pertinent information to a Board decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a grant or other benefit.

d. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

e. To transfer information necessary to report a claim for benefits under the

various benefit programs in operation at the Board.

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

STORAGE:

Records are maintained in file folders, magnetic tape, disc, punched cards, index cards and microfilm.

RETRIEVABILITY:

Records are indexed by any combination of name, date of birth, social security number, or identification number.

SAFEGUARDS:

Records are located in lockable metal file cabinets in secured rooms with access limited to those whose official duties require it.

RETENTION AND DISPOSAL:

The General Personnel Record is retained until five years after death or until an individual achieves age 75 where he or she does not separate employment by retirement.

SYSTEM MANAGER AND ADDRESS:

Personnel Officer, Federal Retirement Thrift Investment Board, 805 Fifteenth Street, NW., Washington, DC 20005.

NOTIFICATION:

Inquiries, including name, date of birth, and social security number should be addressed to the System Manager, address above.

RECORD ACCESS PROCEDURES:

Current and former Board employees who wish to gain access to or contest their records should contact the System Manager, address above. Former Board employees should direct such a request in writing, including their name, date of birth, and social security number.

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the individual to whom it applies or is derived from the information the individual supplied, except information provided by Board officials. Information is also obtained from the following sources for administration of the benefits portions of the system:

1. OPM Personnel Management Records System.

2. Personnel records of other Government agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(2) and (k)(5) (the Privacy Act) and the Board's regulations relating thereto (5 CFR 1630.18), certain portions of this system of records may be exempted from certain provisions of the Act where: (1) Such portions represent investigatory material compiled for law enforcement purposes; or (2) such portions represent investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Board employment to the extent that disclosure of such portions would reveal the identity of a source who furnished information under a promise of confidentiality.

FRTIB–3

SYSTEM NAME:

EEO Discrimination Complaint File.

SYSTEM LOCATION:

Federal Retirement Thrift Investment Board, 805 Fifteenth Street, NW., Washington, DC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for Board employment and current and former Board employees who file a complaint of discimination or appeal a determination made by an official of the Board relating to equal employment opportunities.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information or documents relating to a complaint or a decision made by the Board affecting an individual under the Board's EEO regulations and procedures. The records consist of the initial complaint or appeal letters or notices to the individual, record of hearings when conducted, materials placed into the record to support the decision or determination affidavits or statements, testimony of witnesses, investigative reports, instructions to the Board and/or individual about action to be taken to comply with decisions, and related correspondence opinions and recommendations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 8474.

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

The information in the records may be used:

a. To adjudicate an appeal, complaint, or grievance.

b. To refer, where there is an indication of a violation or potential violation of law, whether civil, or regulatory in nature, to the appropriate agency, whether Federal, State, or local charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

c. To provide information or disclose to a Federal agency, in response to its request in connection with the hiring or retention of an employee, the lettering of a contract, or issuance of a license grant or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

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

STORAGE:

These records are maintained in file folders, binders, and index cards.

RETRIEVABILITY:

These records are indexed by the names of the individuals on whom they are maintained.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

The records are maintained indefinitely.

SYSTEM MANAGER AND ADDRESS:

Personnel Officer, Federal Retirement Thrift Investment Board, 805 fifteenth Street, NW., Washington, DC 20005.

NOTIFICATION PROCEDURE:

Individuals who have filed appeals or grievances are aware of that fact and have been provided a copy of the records. They may, however, contact the System Manager, address above. Individuals should provide their name, date of birth, and the approximate date of employment or application, and the kind of action taken by the Board when making inquiries about records.

RECORD ACCESS PROCEDURES:

Individuals who have appealed or filed a grievance about a decision or determination made by the Board or about conditions existing in the Board already have been provided a copy of the records. However, to gain access or contest the records in this system, individuals should contact the System Manager, address above. Individuals should provide their name, date of birth, approximate date of employment or application and the kind of action taken by the Board.

RECORD SOURCE CATEGORIES:

a. Individual to whom the record pertains
b. Board employees
c. Affidavits or statements from employee
d. Testimony of witnesses
e. Official documents relating to the appeal, grievance, or complaint
f. Correspondence from specific organizations or persons.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to subsection 5 U.S.C. 552a(k)(2) (the Privacy Act) and the Board's regulation relating thereto (5 CFR 1830.16) certain portions of this system of records may be exempted from certain provisions of the Act where such portions represent investigatory material compiled for law enforcement purposes.

FRTIB–4

SYSTEM NAME:

Adverse Information and Action Records: Disciplinary Records.

SYSTEM LOCATION:

Federal Retirement Thrift Investment Board, 805 Fifteenth Street, NW., Washington, DC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Board employees, (including special employees) and annuitants who are involved in an adverse action; employees who suffer a withholding of a Progress Step Increase: and those employees who have creditors contracting the Board relative to credit problems.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records may contain information or documents relating to a determination made by the Board affecting an individual. The records consist of letters or notices to the individual, record of hearings when conducted, materials placed into the record to support the decision or determination, affidavits or statements, testimony of witnesses, investigative reports, and related correspondence, opinions and recommendations. Letters from creditors are also contained in this system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 8474.

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

The information in the records may be used:

a. To adjudicate an appeal, complaint, or grievance.

b. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

c. To request information from a Federal, State or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, such as licenses, if necessary to obtain relevant information to a Board decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a grant or other benefit.

d. To provide information or disclose to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

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

STORAGE:

These records are maintained in fine folders, binders, and index cards.

RETRIEVABILITY:

These records are indexed by the names of the individuals on whom they are maintained.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

The records are maintained indefinitely after cessation of employment unless deemed unnecessary, and then destroyed.

SYSTEM MANAGER AND ADDRESS:

Personnel Officer, Federal Retirement Thrift Investment Board, 805 Fifteenth Street NW., Washington, DC 20005.

NOTIFICATION PROCEDURE:

Individuals should provide name, date of birth, social security number, identification number (if known), approximate date of record, and type of situation with which concerned, to the System Manager, address above.

RECORD ACCESS PROCEDURE:

Individuals wishing to know whether information about them is maintained in this system of records should address inquiries to the System Manager above. Former Board employees should direct such a request in writing, including their name, date of birth and social security number.

RECORD SOURCE CATEGORIES:

Information provided by persons involved in there adverse action process including law enforcement personnel.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

FRTIB–5

SYSTEM NAME:

Payroll Records.

SYSTEM LOCATIONS:

General Services Administration, National Capital Region, copies held by the Board. (GSA holds records for the Board under contract.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Past and present employees and members of the Board.

CATEGORIES OF RECORDS IN THE SYSTEM:

Varied payroll records including payment vouchers, comprehensive listing of employees, requests for deductions, tax forms, W–2 forms, overtime requests, leave data, workmen's compensation data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 8474.

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

Used in the preparation of Board payroll, as input to several management reports, and from time to time, input to other contributing organizations for use in studies, analyses, and reports or support activities.

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

STORAGE:

On tape, punched cards, index cards, folders and document files.

RETRIEVABILITY:

Filed by name, social security number, and employee number.

SAFEGUARDS:

Access is restricted to authorized personnel only. Records are stored in cabinets and a safe. Access to computer records is restricted to authorized personnel.

RETENTION AND PROPOSAL:

Minimum of one year from date of annual audit maximum of indefinite.

SYSTEM MANAGER AND ADDRESS:

Personnel Officer, Federal Retirement Thrift Investment Board, 805 Fifteenth Street NW., Washington, DC 20005.

NOTIFICATION PROCEDURE:

Current and former employees who wish to gain access or contest their records should contact System Manager, address above. Individuals should provide name, date of birth, social security number, identification number (if known).

RECORD ACCESS PROCEDURE:

Current and former employees who wish to gain access or contest their records should contact System Manager, address above. Individuals should provide name, date of birth, social security number, identification number (if known).

RECORD SOURCE CATEGORIES:

Internal personnel forms, Federal, state, and local tax forms, employee authorizations and directive forms, insurance forms, leave and overtime reports. Federal and state garnishment forms.

SYSTEMS EXEMPTED FROM CERTAIN PROVISION OF THE ACT:

None.

FRTIB-6

SYSTEM NAME:

Leave Records.

SYSTEM LOCATION:

Federal Retirement Thrift Investment Board, 805 Fifteenth Street, NW., Washington, DC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present employees, former employees for a period of three years following their separation from the Board.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains timekeeper records, leave cards, payroll notifications, supporting memorandum, periodic leave statements, and creditable service documentation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 8474.

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

Used as a data source for management information and payment of leave, for production of statistics and analytical studies in support of the function for which records are collected and maintained or for related personnel management functions, and manpower studies. This information is provided to the General Services Administration which is under contract to provide personnel support to the Board and it will be disclosed to other Federal agencies in connection with official audit activities.

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

STORAGE:

Punched card, tape, disk, index card, folder, and print out.

RETRIEVABILITY:

Filed by date, but may be filed by name or identifying number.

SAFEGUARDS:

Stored in locked metal file cabinets, other record stored in secured limited access computer facilities.

RETENTION AND DISPOSAL:

Specific information destroyed after three years. Summary data is a part of permanent official personnel file.

SYSTEM MANAGER AND ADDRESS:

Personnel Officer, Federal Retirement Thrift Investment Board, 805 Fifteenth Street, NW., Washington, DC.

NOTIFICATION PROCEDURE:

Individual wishing to know whether information about them is maintained in this system of records should address inquiries ot the System Manager above. Former Board employees should direct such a request in writing, including their name, date of birth, and social security number.

RECORD ACCESS PROCEDURE:

Individuals wishing to gain access or contest their records should contact the System Manager, address above. Former Board employees should direct such a request in writing, including their name, date of birth, and social security number.

RECORD SOURCE CATEGORIES:

Records, files and forms of the Board, information provided by the employee.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

FRTIB-7

SYSTEM NAME:

Consultant and Staff Associate File.

SYSTEM LOCATION:

Federal Retirment Thrift Investment Board, 805 Fifteenth Street, NW., Washington, DC 20005.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals retained by formal agreement, who: (1) Provide consulting services to the Board and (2) act as advisors to the Board, but do not maintain the independence of action necessary to meet the requirements for classification as an independent contractor.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents, letters, memorandum of understanding relating to agreement, rates of pay, payment, records, vouchers, invoices, and selection: negotiation, implementation, scope and performance of work. Additional information may be found on reemployed annuitants in the Board's General Personnel Records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 8474.

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

Routine uses include, but are not restricted to, selection, monitoring, evaluation and control, audit and analysis, routine management activity, and statistical use without individual identification: Verification and confirmation; and referral when used as a basis for prospective employment by employers other than the Board; to provide information or disclose to a Federal agency, or any other employer or prospective employer, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

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

STORAGE:

Folder, punched card, tape, disk and index card.

RETRIEVABILITY:

Filed by name and cross indexed by voucher number and date.

SAFEGUARDS:

Stored in secured area, access limited to Board staff on an official use basis.

RETENTION AND DISPOSAL:

Indefinite.

SYSTEM MANAGER AND ADDRESS:

Personnel Officer, Federal Retirement Thrift Investment Board, 805 Fifteenth Street, NW., Washington, DC 20005

NOTIFICATION PROCEDURE:

Individuals who have filed appeals or grievances are aware of that fact and have been provided a copy of the records. They may, however, contact the System Manager, address above. Individuals should provide their name, date of birth, and the approximate date of employment or application, and the kind of action taken by the Board when making inquiries about records.

RECORD ACCESS PROCEDURE:

Individuals who have appealed or filed a grievance about a decision or determination made by the Board or about conditions existing in the Board already have been provided a copy of the records. However, to gain access or contest the records in this system; individuals should contact the System Manager, address above. Individuals should provide their name, date of birth, approximate date of employment or application, and the kind of action taken by the Board.

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from the individual to whom it apples or is derived from information supplied by the individual, except information provided by Board staff, and for reemployed annuitants where the inactive General Personnel File is activated.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to subsections (k)(2) and (k)(5) of the Privacy Act and the Board's regulation relating thereto (5 CFR 1630.16), certain portions of this systems of records may be exempted from certain provisions of the Act where: (1) Such portions represent investigatory material compiled for law enforcement purposes, or (2) such portions represent investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Board employment to the extent that disclosure of such portions would reveal the identity of a source who furnished information under a promise of confidentiality.

FRTIB-8

SYSTEM NAME:

Board Members File.

SYSTEM LOCATION:

Federal Retirement Thrift Investment Board, 805 Fifteenth Street, NW., Washington, D.C. 20005.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Past and present members of the Board.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographies of past and present members of the Board, oaths of office, and miscellaneous correspondence relating to such Members.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 8474.

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

Used for background information to determine qualifications for appointment, reappointments, for compiling information for new releases and other publications, and for recording correspondence concerning the members.

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

STORAGE:

Paper records.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Locked in a metal file cabinet. Access limited to Board staff on a restricted basis.

RETENTION AND DISPOSAL:

Indefinite.

SYSTEM MANAGER AND ADDRESS:

Secretary to the Board, Federal Retirement Thrift Investment Board, 805 Fifteenth Street, NW., Washington, D.C. 20005.

NOTIFICATION PROCEDURE:

Contact the System Manager, address above.

RECORD ACCESS PROCEDURES:

Contact the System Manager, address above.

RECORD SOURCE CATEGORIES:

Generated by individuals, incoming correspondence and staff response thereto.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT

Pursuant to 5 U.S.C. 552a(k)(5) (the Privacy Act) and the Board's regulation relating thereto (5 CFR 1630.16) certain portions of this system of records may be exempted from certain provisions of the Act where such portions represent investigatory material compiled solely for the purpose of determining suitability, eligibility or qualifications for Board employment to the extent that disclosure of such portions would reveal the identity of a source who furnished information under a promise of confidentiality.

FRTIB-9

SYSTEM NAME:

Employee Locator Card Files.

SYSTEM LOCATION:

Federal Retirement Thrift Investment Board, 805 Fifteenth Street, NW., Washington, D.C. 20005.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Board.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains information regarding the organizational location and telephone extension of individual Board employees. The system also contains the home address and telephone number of the employee, and the name, address, and telephone number of an individual to contact in the event of a medical or other emergency involving the employee.

AUTHORITY FOR MAINTAINENCE OF THE SYSTEM:

5 U.S.C. 8474.

PURPOSE(S):

Information is collected for this system for use in preparing telephone directories of the extensions of Board employees. The record also serves to identify an individual for Board officials to contact should an emergency of a medical or other nature involving the employee occur while the employee is on the job. These records may be used to locate individuals for personnel research.

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

These records and information in these records may be used:

a. By the Board in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related

work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of the elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

b. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

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

STORAGE:

Records are maintained on cards.

RETRIEVABILITY:

Records are retrieved by the name of the individual on whom they are maintained.

SAFEGUARDS:

Records are maintained in secured areas and are available only to authorized personnel whose duties require access.

RETENTION AND DISPOSAL:

Records are maintained as long as the individual is an employee of the Board. Expired records are destroyed by burning or shredding.

SYSTEM MANAGER AND ADDRESS:

Personnel Officer, Federal Retirement Thrift Investment Board, 805 Fifteenth Street, NW., Washington, D.C. 20005.

NOTIFICATION PROCEDURE:

Board employees wishing to inquire whether this system contains information about them should contact the System Manager. Individuals must supply their full name for their records to be located and identified.

RECORD ACCESS PROCEDURES:

Board employees wishing to request access to records about them should contact the System Manager. Individuals must supply their full name for their records to be located and identified.

CONTESTING RECORD PROCEDURES:

Office employees may amend information in these records at any time by resubmitting the cards. Individuals wishing to request amendment of their records under the provisions of the Privacy Act should contact the Board's Administrative Officer. Individuals must furnish full name for their records to be located and identified.

RECORD SOURCE CATEGORIES:

Information is provided by the individual who is the subject of the record.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

FRTIB-10

SYSTEM NAME:

Grievance Records.

SYSTEM LOCATIONS:

Federal Retirement Thrift Investment Board, 805 Fifteenth Street, NW., Washington, DC 20005

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current or former Board employees who have filed grievance.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains records relating to girevances filed by Board employees. These case files contain all documents related to the grievance including statements of witnesses, reports of interviews and hearings, examiners' findings and recommendations, a copy of the original decision, and related correspondence and exhibits. This system does not include files and records of any grievance filed under negotiated procedures with recognized labor organizations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 8474.

PURPOSE(S):

These records are used to process grievances submitted by Board employees for personal relief in a matter of concern or dissatisfaction which is subject to the control of agency management.

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

These records and information in these records may be used:

a. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

b. To disclose information to any source from which additional information is requested in the course of processing a grievance, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and identify the type of information requested.

c. To disclose information to a Federal agency in respone to its request in connection with the hiring or retention of an employee, issuance of a security clearance, conducting of a security or suitability investigation of an individual, the classifying of jobs, letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to requesting the agency's decision on the matter.

d. To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Council, when requested in connection with appeals, special studies of the civil service and other merit systems, alleged or possible prohibited personnel practices, and such other functions as may be authorized by law.

e. To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigation into alleged or possible discriminatory practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission.

f. To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.

g. To disclose in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

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

STORAGE:

These records are maintained in file folders.

RETRIEVABILITY:

These records are retrieved by tne names of the individuals on whom they are maintained.

SAFEGUARDS:

These records are maintained in lockable metal filing cabinets to which only authorized personnel have access.

RETENTION AND DISPOSAL:

These records are disposed of 3 years after closing the case. Disposal is by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Personnel Officer, Federal Retirement Thrift Investment Board, 805 Fifteenth Street NW, Washington, DC 20005.

NOTIFICATION PROCEDURE:

It is required that individuals submitting grievances be provided a copy of the record under the grievance process. They may, however, contact the personnel or designated office where the action was processed, regarding the existence of such records on them. They must furnish the following information for their records to be located and identified:

a. Name.

b. Date of birth.

c. Approximate date of closing of the case and kind of action taken.

RECORDS ACCESS PROCEDURES:

It is required that individuals submitting grievances be provided a copy of the record under the grievance process. However, after the action has been closed, an individual may request access to the official copy of the grievance file by contacting the personnel or designated office where the action was processed. Individuals must provide the following information for their records to be located and identified:

a. Name.

b. Date of birth.

c. Approximate date of closing of the case and kind of action taken.

CONTESTING RECORD PROCEDURES:

Review of requests from individual's seeking amendment of their records which have been the subject of a judical or quasijudicial action will be limited in scope. Review of amendment requests of these records will be restricted to determining if the record accurately documents the ruling on the case, and will not include a review of the merits of the action, determination, or finding.

Individuals wishing to request amendment to their records to correct factual errors should contact the personnel or designated office where the grievance was processed. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Date of birth.

c. Approximate date of closing of the case and kind of action taken.

RECORD SOURCE CATEGORIES:

Information in this system of records is provided:

a. By the individual on whom the record is maintained.

b. By testimony of witnesses.

c. By agency officials.

d. From related correspondence from organizations or persons.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

FRTIB–11

SYSTEM NAME:

Financial Disclosure Reports and Outside Business Interest Records.

SYSTEM LOCATION:

Federal Retirement Thrift Investment Board, 805 Fifteenth Street NW., Washington, DC 20005.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Board members, officials, and key Board employees who are required to file annual financial disclosure reports pursuant to Title II of the Ethics in Government Act, as amended. Pub. L. 95–521, 1978 and Pub. L. 96–19, 1979 or pursuant to Board Regulation, and outside business interest application forms, filed pursuant to Board regulations.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain:

a. The annual financial disclosure reports filed on forms prescribed by the Office of Government Ethics, for those Board members and officials who are required by statute to file these reports;

b. Confidential annual financial disclosure reports filed annually by designated Board employees who are required by Board regulations to file these reports; and

c. Outside business interest application forms filed by employees pursuant to Board regulation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 8474.

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

The information in these records may be used:

a. To provide information to the Office of Government Ethics.

b. To provide copies of those financial disclosure reports filed pursuant to the Ethics in Government Act to the public, upon request.

c. To refer, where there is an indication of a violation or potential violation of law, to the appropriate agency, whether federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

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

STORAGE:

These records are maintained in file folders in locked steel file cabinets.

RETRIEVABILITY:

These records are indexed by the names of the individuals to whom they pertain.

SAFEGUARDS:

Accuses to and use of these records is restricted to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

a. Financial disclosure reports filed pursuant to the Ethics in Government Act are retained for the statutorily required six-year period, after which they are destroyed, unless needed in an ongoing investigation.

b. Confidential financial disclosure reports filed pursuant to Board regulation are maintained indefinitely.

c. Outside Business interest Applications are maintained indefinitely.

SYSTEM MANAGER AND ADDRESS:

Ethics Officer, Federal Retirement Thrift Investment Board, 805 Fifteenth Street NW., Washington, DC 20005.

NOTIFICATION PROCEDURE:

a. Requests for access to financial disclosure reports filed pursuant to the Ethics in Government Act are to be submitted on the form provided by the Office of Government Ethics.

b. Individuals wishing to have access to their own confidential financial disclosure reports or outside business interest applications should contact the System Manager above.

RECORD ACCESS PROCEDURE:

Individuals wishing to gain access to or to correct information maintained about them in this system of records should contact the System Manager above. Former Board employees should direct such a request in writing, including their name, date of birth and social security number.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 90–10373 Filed 5–4–90; 8:45 am]

BILLING CODE 6760–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Advisory Committee Meetings in May and June

AGENCY: Alcohol, Drug Abuse, and Mental Health Administration, HHS.

ACTION: Notice of meetings.

SUMMARY: This notice sets forth the schedule and proposed agendas of the forthcoming meetings of the agency's advisory committees in the months of May and June 1990.

The Extramural Science Advisory Board, NIHM, will discuss Institute-related programs concerning molecular genetics. Attendance by the public will be limited to space available.

The Advisory Panel on Alzheimer's Disease will discuss plans for a hearing on values and goals relating to Alzheimer's disease, plans for the Panel's third report, dissemination of its second report and other business before the Panel. Attendance by the public will be limited to space available.

The initial review committees will be performing initial review of applications for Federal assistance. Therefore, portions of the meetings will be closed to the public as determined by the Administator, ADAMHA, in accordance with 5 U.S.C. 552(b)(6) and 5 U.S.C. app. 2 10(d).

Notice of these meetings is required under the Federal Advisory Committee Act, Pub. L. 92–463.

Committee Name: Cellular Neurobiology and Psychopharmacology Subcommittee of the Neurosciences Research Review Committee, NIMH.

Date and Time: May 31–June 2: 8:30 a.m.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Status of Meeting: Open—May 31: 8:30–9:30 a.m.; Closed—Otherwise.

Contact: Barbara Campbell, Room 9C–26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–3944.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to cellular neurobiology, and psychopharmacology with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Advisory Panel on Alzheimer's Disease.

Date and Time: June 4: 9:00 a.m.

Place: Ramada Renaissance Hotel, Willow Room, 1143 New Hampshire Avenue, NW., Washington, DC 20037.

Status of Meeting: Open—June 4: 9:00 a.m.–5:00 p.m.

Contact: George Niederehe, Room 11C–03, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–1185.

Purpose: The Advisory Panel on Alzheimer's Disease assists the Secretary of Health and Human Services and the Council on Alzheimer's Disease in the identification of priorities and emerging issues with respect to Alzheimer's disease and related dementias and the care of individuals with such disease and dementias.

Committee Name: Biochemistry, Physiology, and Medicine Subcommittee of the Alcohol Biomedical Research Review Committee, NIAAA.

Date and Time: June 4–5: 9:00 a.m.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

Status of Meeting: Open—June 4: 9:00–9:30 a.m.; Closed—Otherwise.

Contact: Ronald F. Suddendorf, Room 16C–26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–6106.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute on Alcohol Abuse and Alcoholism for support of research and training activities and makes recommendations to the National Advisory Mental Health Council on Alcohol Abuse and Alcoholism for for final review.

Committee Name: Psychosocial and Biobehavioral Treatments Subcommittee of the Treatment Development and Assessment Research Review Committee, NIMH.

Date and Time: June 4–5: 9:00 a.m.

Place: Governors House Holiday Inn, 1615 Rhode Island Avenue, NW., Washington, DC 20036.

Status of Meeting: Open—June 4: 9:00–10:00 a.m.; Closed—Otherwise.

Contact: Frances Smith, Room 9C–02, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–4868.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and/or research training activities in the fields of treatment development and assessment and makes recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Epidemiology and Prevention Subcommittee of the Alcohol Psychosocial Research Review Committee, NIAAA.

Date and Time: June 4–6: 9:00 a.m.

Place: The River Inn, 924 Twenty-fifth Street, NW., Washington, DC 20037.

Status of Meeting: Open—June 4: 9:00–10:00 a.m.; Closed—Otherwise.

Contact: Lenore Sawyer Radloff, Room 16C–26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–6106.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute on Alcohol Abuse and Alcoholism for support of research and training activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Committee Name: Epidemiology Research Subcommittee of the Epidemiologic and Services Research Review Committee, NIMH.

Date and Time: June 4–6: 9:00 a.m.

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Status of Meeting: Open—June 4: 9:00–10:00 a.m.; Closed—Otherwise.

Contact: Gloria Yockelson, Room 9C–14, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–1367.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities as they relate to mental health epidemiology, mental health service systems research, and evaluation of clinical mental health services, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Clinical Biology Subcommittee of the Psychopathology and Clinical Biology Research Review Committee, NIMH.

Date and Time: June 4–6: 9:00 a.m.

Place: The Hampshire Hotel, 1310 New Hampshire Avenue, NW., Washington, DC 20036.

Status of Meeting: Open—June 4: 9:00–10:00 a.m.; Closed—Otherwise.

Contact: Maureen Eister, Room 9C–08, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–1340.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of activities in the fields of research and research training activities in the areas of clinical psychopathology and clinical biology as they relate to mental health, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Clinical Program Projects and Clinical Research Centers Subcommittee of the Treatment Development and Assessment Research Review Committee, NIMH.

Date and Time: June 7: 9:00 a.m.

Place: Governors House Holiday Inn, 1615 Rhode Island Avenue, NW., Washington, DC 20036.

Status of Meeting: Open—June 7: 9:00–10:00 a.m.; Closed—Otherwise.

Contact: Frances Smith, Room 9C–02, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–4868.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of Mental Health Clinical Research Centers, clinical program projects, and other large-scale multi-disciplinary research projects, and makes recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Aging Subcommittee of the Life Course and Prevention Research Review Committee, NIMH.

Date and Time: June 7–8: 9:00 a.m.

Place: The Hampshire Hotel, 1310 New Hampshire Avenue, NW., Washington, DC 20036.

Status of Meeting: Open—June 7: 9:00–10:00 a.m.; Closed—Otherwise

Contact: Phyllis Zusman, Room 9C–18, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–3857.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research grants, individual postdoctoral research fellowships and institutional research training grants, cooperative agreements, and research and development contracts, as they relate to mental health, in the fields of child, family, and aging, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Research Scientist Development Review Committee, NIMH.

Date and Time: June 7–9: 9:00 a.m.

Place: The Omni Shoreham Hotel, 2500 Calvert Street, NW., Washington, DC 20008.

Status of Meeting: Open—June 7: 9:00–10:00 a.m.; Closed—Otherwise.

Contact: Phyllis D. Artis, Room 9C–15, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–6470.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of activities to develop and execute a program of Research Scientist and Research Scientist Development Awards to appropriate institutions for the support of individuals who are engaged full-time in research and related activities relevant to mental health, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Neuroscience and Behavior Subcommittee of the Alcohol Biomedical Research Review Committee, NIAAA.

Date and Time: June 11–13: 9:00 a.m.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

Status of Meeting: Open—June 11: 9:00–10:00 a.m.; Closed—Otherwise.

Contact: Mark Green, Room 16C–20, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–4375.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute on Alcohol Abuse and Alcoholism for support of research and training activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Committee Name: Biological and Neurosciences Subcommittee of the Mental Health Small Grant Review Committee, NIMH.

Date and Time: June 13–15: 9:00 a.m.

Place: The Sheraton Washington Hotel, 2660 Woodley Road at Connecticut Avenue, NW., Washington, DC 20008.

Status of Meeting: Open—June 13: 9:00–10:00 a.m.; Closed—Otherwise.

Contact: Monica Woodfork, Room 9C–05, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–4843.

Purpose: The Subcommittee is charged with the initial review of applications for research in all disciplines pertaining to mental health for support of research in the areas of psychology, psychiatry, and the behavioral and biological sciences.

Committee Name: Clinical and Behavioral Sciences Subcommittee of the Mental Health Small Grant Review Committee, NIMH.

Date and Time: June 13–15: 9:00 a.m.

Place: The Sheraton Washington Hotel, 2660 Woodley Road at Connecticut Avenue, NW., Washington, DC 20008.

Status of Meeting: Open—June 13: 9:00–10:00 a.m.; Closed—Otherwise.

Contact: Kimberly Crown, Room 9C–05, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–4843.

Purpose: The Subcommittee is charged with the initial review of applications for research in all disciplines pertaining to mental health for support of research in the areas of psychology, psychiatry, and the behavioral and biological sciences.

Committee Name: Drug Abuse Epidemiology and Prevention Research Review Committee, NIDA.

Date and Time: June 11–14: 8:30 a.m.

Place: Holiday Inn Crowne Plaza, Woodmont Room, 1750 Rockville Pike, Rockville, MD 20852.

Status of Meeting: Open—June 11: 8:30–9:00 a.m.; Closed—Otherwise.

Contact: Raquel Crider, Room 10–22, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–9042.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities, and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Committee Name: Psychopathology Research Subcommittee of the Psychopathology and Clinical Biology Research Review Committee, NIMH.

Date and Time: June 13–15: 9:00 a.m.

Place: The Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Status of Meeting: Open—June 13: 9:00–10:00 a.m.; Closed—Otherwise.

Contact: Larnetta Gray, Room 9C–08, Parklawn Buiding, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–1340.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities in the areas of clinical psychopathology and clinical biology as they relate to mental health, with recommendations to the National Advisory Health Council for final review.

Committee Name: Services Research Subcommittee of the Epidemiologic and

Services Research Review Committee, NIMH.

Date and Time: June 13–15: 9:00.

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Status of Meeting: Open—June 13: 9:00–10:00 a.m.; Closed—Otherwise.

Contact: Gloria Yockelson, Room 9C–14, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–1367.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities as they relate to mental health epidemiology, mental health service systems research, and evaluation of clinical mental health services, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Child and Family and Prevention Subcommittee of the Life Course and Prevention Research Review Committee, NIMH.

Date and Time: June 14–16: 9:00 a.m.

Place: St. James Hotel, 950 Twenty-fourth Street NW., Washington, DC 20037.

Status of Meeting: Open—June 14: 9:00–10:00 a.m.; Closed—Otherwise.

Contact: Ruby Neville, Room 9C–18, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–3857.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research grants, individual postdoctoral research fellowships and institutional research training grants, cooperative agreements, and research and development contracts, as they related to mental health, in the fields of child and family, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Mental Health Behavioral Sciences Research Review Committee, NIMH.

Date and Time: June 14–16: 8:30 a.m.

Place: Guest Quarters, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Status of Meeting: Open—June 14: 8:30–9:30 a.m.; Closed—Otherwise.

Contact: Shirley Maltz, Room 9C–26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–3936.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to behavioral sciences with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Extramural Science Advisory Board, NIMH.

Date and Time: June 15: 8:30 a.m.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

Status of Meeting: Open—June 15: 8:30 a.m.–5:00 p.m.

Contact: Tony Pollitt, Room 17C–26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–3175.

Purpose: The Extramural Science Advisory Board, NIMH, advises the Secretary of Health and Human Services, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute of Mental Health, on the direction, scope, balance, and emphasis of the Institute's extramural science programs.

Committee Name: Biochemistry Research Subcommittee of the Drug Abuse Biomedical Research Review Committee, NIDA.

Date and Time: June 19–22: 8:30 a.m.

Place: Holiday Inn Crowne Plaza, Twinbrook Room, 1750 Rockville Pike, Rockville, MD 20852.

Status of Meeting: Open—June 19: 8:30–9:00 a.m.; Closed—Otherwise.

Contact: Rita Liu, Room 10–42, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–2620.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities, and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Committee Name: Drug Abuse Clinical and Behavioral Research Review Committee, NIDA.

Date and Time: June 19–22: 9:00 a.m.

Place: Holiday Inn Crowne Plaza, Randolph Room, 1750 Rockville Pike, Rockville, MD 20852.

Status of Meeting: Open—June 19: 9:00–9:30 a.m.; Closed—Otherwise.

Contact: Daniel Mintz, Room 10–22, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–9042.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities, and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Committee Name: Pharmacology I Research Subcommittee of the Drug Abuse Biomedical Research Review Committee, NIDA.

Date and Time: June 19–22: 8:30 a.m.

Place: Holiday Inn Crowne Plaza, Montrose Room, 1750 Rockville Pike, Rockville, MD 20852.

Status of Meeting: Open—June 19: 8:30–9:00 a.m.; Closed—Otherwise.

Contact: Heinz Sorer, Room 10–42, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–2620.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities, and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Committee Name: Pharmacology II Research Subcommittee of the Drug Abuse Biomedical Research Review Committee, NIDA.

Date and Time: June 19–22: 8:30 a.m.

Place: Holiday Inn Crowne Plaza, Halpine Room, 1750 Rockville Pike, Rockville, MD 20852.

Status of Meeting: Open—June 19: 8:30–9:00 a.m.; Closed—Otherwise.

Contact: Gamil Debbas, Room 10–42, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–2620.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities, and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Committee Name: Psychopharmacological, Biological, and Physical Treatments Subcommittee of the Treatment Development and Assessment Research Review Committee, NIMH.

Date and Time: June 20–21: 9:00 a.m.

Place: Washington Marriott, 1221 Twenty-second Street NW., Washington, DC 20037.

Status of Meeting: Open—June 20: 9:00–10:00 a.m.; Closed—Otherwise.

Contact: Helen Craig, Room 9C–14, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–1367.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and/or research training activities in the fields of treatment development and assessment and makes recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Clinical and Treatment Subcommittee of the Alcohol Psychosocial Research Review Committee, NIAAA.

Date and Time: June 25–26: 8:30 a.m.

Place: Holiday Inn Capitol, 550 C Street SW., Washington, DC 20024.

Status of Meeting: Open—June 25: 8:30–9:30 a.m.; Closed—Otherwise.

Contact: Thomas D. Sevy, Room 16C–26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–6106.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute on Alcohol Abuse and Alcoholism for support of research and training activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Committee Name: Small Business Research Subcommittee, NIMH.

Date and Time: June 25–26: 9:00 a.m.

Place: Canterbury Hotel, 1733 N Street NW., Washington, DC 20036.

Status of Meeting: Open—June 25: 9:00–10:00 a.m.; Closed—Otherwise.

Contact: Gloria Levin, Room 9C–14, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–1367.

Purpose: The Committee is charged with the initial review of applications requesting support from the National Institute of Mental Health for small businesses involved in mental health research. Final review and recommendations are made from the National Advisory Mental Health Council.

Committee Name: Immunology and AIDS Subcommittee of the Alcohol Biomedical Research Review Committee, NIAAA.

Date and Time: June 28–29: 9:00 a.m.

Place: Hyatt Regency Hotel, One Bethesda Metro Center, Bethesda, MD 20814.

Status of Meeting: Open—June 28: 9:00–10:00 a.m.; Closed—Otherwise.

Contact: Barbara Smothers, Room 16C–26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–4375.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute on Alcohol Abuse and Alcoholism for support of research and training activities, and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Committee Name: Clinical, Psychosocial, and Behavioral Sciences Subcommittee of the Mental Health Acquired Immunodeficiency Syndrome Research Review Committee, NIMH.

Date and Time: June 28–29: 8:30 a.m.

Place: The River Inn, 924 Twenty-fifth Street, NW., Washington, DC 20037.

Status of Meeting: Open—June 28: 8:30–9:15 a.m.; Closed—Otherwise.

Contact: Regina Thomas, Room 9C–15, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–6470.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of activities in the fields of research and activities in the areas of clinical, psychosocial, and behavioral sciences aspects of AIDS as they relate to mental health, and makes recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Psychobiological, Biological, and Neurosciences Subcommittee of the Mental Health Acquired Immunodeficiency Syndrome Research Review Committee, NIMH.

Date and Time: June 28–29: 8:30 a.m.

Place: The River Inn, 924 Twenty-fifth Street, NW., Washington, DC 20037.

Status of Meeting: Open—June 28: 8:30–9:15 a.m.; Closed—Otherwise.

Contact: Michelle Burns, Room 9C–15, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–6470.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of activities in the fields of research and activities in the areas of psychobiological, biological, and neurosciences aspects of AIDS as they relate to mental health, and makes recommendations to the National Advisory Mental Health Council for final review.

Substantive information, summaries of the meetings, and rosters of committee members may be obtained as follows: Ms. Diana Widner, NIAAA Committee Management Officer, Room 16C–20, (301) 443–4375; Ms. Camilla Holland, NIDA Committee Management Officer, Room 10–42, (301) 443–2755; Ms. Joanna Kieffer, NIMH Committee Management Officer, Room 9–105, (301) 443–4333. The mailing address for the above parties is: Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Dated: May 1, 1990

Peggy W. Cockrill,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 90–10436 Filed 5–4–90; 8:45 am]

BILLING CODE 4160–20–M

Food and Drug Administration

[Docket No. 90P–0136]

Sour Cream Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to Land O'Lakes, Inc., to market test a product designated as "light sour cream" that deviates from the U.S. standard of identity for sour cream (21 CFR 131.160). The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the product.

DATES: This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than August 6, 1990.

FOR FURTHER INFORMATION CONTACT: Shellee A. Davis, Center for Food Safety and Applied Nutrition (HFF–414), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–485–0343.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to Land O'Lakes, Inc., 4001 Lexington Ave. North, Arden Hills, MN 55126.

The permit covers limited interstate marketing tests of a product that deviates from the U.S. standard of identity for sour cream in 21 CFR 131.160 in that: (1) The fat content of the product is reduced from 18 percent to 6 percent; and (2) sufficient Vitamin A palmitate is added in a suitable carrier to ensure that a 2-tablespoon serving of the product contains 4 percent of the U.S. Recommended Daily Allowance for vitamin A. The product meets all requirements of the standard with the exception of these deviations. The purpose of the variation is to offer the consumer a product that is nutritionally equivalent to sour cream but contains fewer calories and less fat.

For the purpose of this permit, the name of the product is "light sour cream." The principal display panel of the label must include the statements "reduced calories" and "reduced fat" following the name. In addition, the

label must bear the comparative statements "⅓ fewer calories" and "⅔ less fat than regular sour cream."

The product complies with the reduced calorie labeling requirements in 21 CFR 105.66(d). In accordance with FDA's current views, reduced fat food labeling is acceptable because there is at least a 50-percent reduction in the fat content of the product. The information panel of the label will bear nutrition labeling in accordance with 21 CFR 101.9.

This permit provides for the temporary marketing of 5,000,000 quarts of the test product. The product will be manufactured at Land O'Lakes, 1501 West 10th St., Sioux Falls, SD 57114, and distributed in the continental United States and Alaska.

Each of the ingredients used in the food must be stated on the label as required by the applicable sections of 21 CFR Part 101. This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than August 6, 1990.

Dated: April 26, 1990.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 90-10505 Filed 5-4-90; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Health Education Assistance Loan Program; "Maximum Interest Rates for Quarter Ending June 30, 1990"

Section 727 of the Public Health Service Act (42 U.S.C. 294) authorizes the Secretary of Health and Human Services to establish a Federal program of student loan insurance for graduate students in health professions schools.

Section 60.13(a)(4) of the program's implementing regulations (42 CFR part 60, previously 45 CFR part 126) provides that the Secretary will announce the interest rate in effect on a quarterly basis.

The Secretary announces that for the period ending June 30, 1990, three interest rates are in effect for loans executed through the Health Education Assistance Loan (HEAL) program.

1. For loans made before January 27, 1981, the variable interest rate is 11⅝ percent. Using the regulatory formula (45 CFR 126.13(a)), in effect prior to January 27, 1981, the Secretary would normally compute the variable rate for this quarter by finding the sum of the fixed annual rate (7 percent) and a variable component calculated by subtracting 3.50 percent from the average bond equivalent rate of 91-day U.S. Treasury bills for the preceding calendar quarter (8.03 percent), and rounding the result (11.53 percent) upward to the nearest one-eighth percent (11⅝ percent).

However, the regulatory formula also provides that the annual rate of the variable interest rate for a 3-month period shall be reduced to the highest one-eighth of 1 percent which would result in an average annual rate not in excess of 12 percent for the 12-month period concluded by those 3 months. Because the average rate of the 4 quarters ending June 30, 1990, is not in excess of 12 percent, there is no necessity for reducing the interest rate. For the previous 3 quarters the variable interest at the annual rate was as follows: 12¼ percent for the quarter ending September 30, 1089; 11⅝ percent for the quarter ending December 31, 1989; and 11½ percent for the quarter ending March 31, 1990.

2. For variable rate loans executed during the period of January 27, 1981, through October 21, 1985, the interest rate is 11⅝ percent. Using the regulatory formula (42 CFR 60.13(a)) in effect for that time period, the Secretary computes the maximum interest rate at the beginning of each calendar quarter by determining the average bond equivalent rate for the 91-day U.S. Treasury bills during the preceding quarter (8.03 percent); adding 3.50 percent (11.53 percent); and rounding that figure to the next higher one-eighth of 1 percent (11⅝ percent).

3. For fixed rate loans executed during the period of April 1, 1990, through June 30, 1990, and for variable rate loans executed on or after October 22, 1985, the interest rate is 11⅛ percent. The Health Professions Training Assistance Act of 1985 (Pub. L. 99-129), enacted October 22, 1985, amended the formula for calculating the interest rate by changing 3.5 percent to 3 percent. Using the regulatory formula (42 CFR 60.13(a)), the Secretary computes the maximum interest rate at the beginning of each calendar quarter by determining the average bond equivalent rate for the 91-day U.S. Treasury bills during the preceding quarter (8.03 percent); adding 3.0 percent (11.03 percent) and rounding that figure to the next higher one-eighth of 1 percent (11⅛ percent).

(Catalog of Federal Domestic Assistance No. 13.108, Health Education Assistance Loans)

Dated: April 30, 1990.

Robert G. Harmon,

Administrator.

[FR Doc. 90-10437 Filed 5-4-90; 8:45 am]

BILLING CODE 4160-15-M

Advisory Council Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of June 1990:

Name: National Advisory Committee on Rural Health.

Date and Time: June 4-6, 1990, 9 a.m.

Place: The Washington Plaza Hotel, Massachusetts and Vermont Avenues NW., Washington, DC.

The meeting is open to the public.

Purpose: The Committee provides advice and recommendations to the Secretary with respect to the delivery, financing, research, development and administration of health care services in rural areas.

Agenda: During the first day, the Committee will focus its plenary sessions on issues related to Medicaid programs, uninsurance and underinsurance. The second day will consist of simultaneous meetings of the Committee's three work groups: Health Care Financing, Health Personnel, and Health Services. At these sessions, hospital, physician, and mid-level practitioner payment, malpractice, rural mental health services, and rural elderly and minority health issues will be discussed. Secretary Louis Sullivan and Health Care Financing Administrator Gail Wilensky will address the Committee on the third day.

Anyone requiring information regarding the subject Council should contact Mr. Jeffrey Human, Executive Secretary, National Advisory Committee on Rural Health, Health Resources and Services Administration, room 14-22, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-0835.

Persons interested in attending any portion of the meeting should contact Ms. Arlene Granderson, Director of Operations, Office of Rural Health Policy, Health Resources and Services Administration, Telephone (301) 443-0835.

Agenda Items are subject to change as priorities dictate.

Dated: May 1, 1990.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 90-10438 Filed 5-4-90; 8:45 am]

BILLING CODE 4160-15-M

Advisory Council Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of June 1990:

Name: Commission on the National Nursing Shortage.

Date and Time: June 11–12, 1990, 8:30 a.m.

Place: Conference Room 703A, Hubert Humphrey Building, 2000 Independence Avenue, Washington, DC. 20201.

The meeting is open to the public.

Purpose: The Commission advises the Secretary, the Assistant Secretary for Health, and the Administrator, Health Resources and Services Administration on specific projects implementing the recommendations of the Secretary's Commission on Nursing. These projects should attempt optimal utilization of available resources and expertise from Federal, State, and local government and private sector organizations.

The recommended projects will target the following five focus areas: (1) Recruitment and the educational pathway; (2) retention and career development; (3) restructuring nursing services and effective utilization of nursing personnel; (4) data collection and analysis requirements; and (5) information systems and related technology in nursing.

In each focus area, the Commission shall formulate one targeted initiative designed to improve the imablance in the nursing labor market and provide a model for broader endeavors. In addition, the Commission shall investigate ways to promote and identify specific commitments from private sector organizations and State and local government for fulfilling the projects.

Agenda: The meeting will include welcome and opening remarks; Summary of the 1988 Secretary's Commission on Nursing (SCON); Overview of current activities addressing SCON's recommendations; Private foundation, professional and other initiatives addressing SCON's recommendations; Discussion of the Commission on the National Nursing Shortage's (CONNS) charge, organization and work plan; selection of Chairperson; Discussion of focus areas and establishment of priorities; Formation of subcommittees; subcommittee work groups and delineation of work for next meetings.

There will be brief segments for public comment, once each day.

Persons interested in providing brief public comments should contact Dr. Caroline B. Burnett, Senior Consultant, Commission on the National Nursing Shortage, Health Resources and Services Administration, Room 14A–40, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–0579, for more specific information. Callers are asked to consider the option of preparing written statements which will be circulated to the whole Committee, or particular Work Groups if requested, prior to the meeting. Work Groups are particularly interested in receiving specific proposals for recommendations the Committee should make to the Secretary.

Anyone requiring information regarding the subject Council should contact Dr. Caroline B. Burnett, Senior Consultant, Commission on the National Nursing Shortage, Health Resources and Service Administration, Room 14A–40, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–0579.

Agenda Items are subject to change as priorities dictate.

Dated: May 1, 1990.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 90–10439 Filed 5–4–90; 8:45 am]

BILLING CODE 4160–15–M

National Institutes of Health

Meeting of Acquired Immunodeficiency Syndrome Program Advisory Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Acquired Immunodeficiency Syndrome (AIDS) Program Advisory Committee on June 11–12, 1990 at the National Institutes of Health, Bethesda, MD. The meeting will take place from 9 a.m. to 5 p.m. on June 11, and from 9 a.m. to 12 p.m. on June 12, in Building 31, C Wing, Conference Room 10. The meeting will be open to the public.

The purpose of the meeting is to review emerging opportunities and to discuss priorities for NIH support in the following areas of AIDS research: drug development, immunopathogenesis research, and vaccine development. In addition, there will be discussions of institutional review boards, treatment for pediatric AIDS, and expanded access to investigational therapy. Anthony S. Fauci, Associate Director for AIDS Research, National Institutes of Health, Shannon Building, Room 201, Bethesda, MD 20892, (301) 496–0357, will furnish the meeting agenda, rosters of Committee members and consultants, and substantive program information upon request.

Date: May 1, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90–10480 Filed 5–4–90; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Meeting

Notice is hereby given of the meeting of the Acrylonitrile Study Advisory Panel, National Cancer Institute, National Institutes of Health, June 20, 1990, Conference Room H, Executive Plaza North, 6130 Executive Blvd., Rockville, Maryland 20892. The entire meeting will be open from 10:30 a.m. to adjournment for discussion and review of the study's progress. Attendance by the public will be limited to space available.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. David McB. Howell, Executive Secretary of the Acrylonitrile Study Advisory Panel, Division of Cancer Etiology, National Cancer Institute, Building 31, Room 11A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496–6927) will provide substantive program information, upon request.

Dated: May 1, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90–10481 Filed 5–4–90; 8:45 am]

BILLING CODE 4140–01–M

National Center for Nursing Research; Meeting of National Advisory Council for Nursing Research

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Advisory Council for Nursing Research, National Center for Nursing Research, June 7–8, 1990, Building 31, Conference Room 6, National Institutes of Health, Bethesda, Maryland 20892.

This meeting will be open to the public on June 7, from 8 a.m. to recess and on June 8 from approximately 1 p.m. to adjournment. Orientation of new members will be held from 8 a.m. to 9:30 a.m. on June 7. Agenda items to be discussed will include the NCNR Director's Report, National Advisory Council for Nursing Research Biennial Report, Report of the Biological Studies Task Force, and a Review of the Health Promotion Branch.

Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d)) of Public Law 92–463, the meeting will be closed to the public on June 8 from 8:30 a.m. to completion of the review, discussion, and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Mary Nuss, Council Assistant, National Advisory Council for Nursing Research, National Institutes of Health, Building 31, room 5–B–23, Bethesda, Maryland 20892, (301) 496–0207, will provide a summary of the meeting, roster of committee members, and substantive program information upon request.

Dated: April 23, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90–10483 Filed 5–4–90; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Allergy and Infectious Diseases; Meeting of Transplantation Biology and Immunology Subcommittee of the Allergy, Immunology, and Transplantation Research Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Transplantation Biology and Immunology Subcommittee of the Allergy, Immunology, and Transplantation Research Committee, National Institute of Allergy and Infectious Diseases, on June 3, 1990, at the Holiday Inn French Quarters, 124 Royal Street, New Orleans, Louisiana 70130.

The meeting will be open to the public from 10 a.m. to 10:25 a.m. on June 3 to discuss administrative details relating to the committee business and for program review. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public for the review, discussion, and evaluation of individual grant applications and contract proposals from 10:25 a.m. on June 3 until adjournment. These applications, proposals, and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Patricia Randall, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, room 7A32, National Institutes of Health, Bethesda, Maryland 20892, telephone (301–496–5717), will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Kamal Mittal, Executive Secretary, Allergy, Immunology, and Transplantation Research Committee, NIAID, NIH, Westwood Building, room 3A06, Bethesda, Maryland 20892, telephone (301–496–3528), will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: April 23, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90–10484 Filed 5–4–90; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Allergy and Infectious Diseases; Meeting of Allergy and Clinical Immunology Subcommittee of the Allergy, Immunology, and Transplantation Research Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Allergy and Clinical Immunology Subcommittee of the Allergy, Immunology, and Transplantation Research Committee, National Institute of Allergy and Infectious Diseases, on June 21–22, 1990, at the Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, Maryland 20814.

The meeting will be open to the public from 8:30 a.m. to 9:10 a.m. on June 21, to discuss administrative details relating to committee business and for program review. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public for the review, discussion, and evaluation of individual grant applications and contract proposals from 9:10 a.m. until recess on June 21, and from 8:30 a.m. until adjournment on June 22. These applications, proposals, and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Patricia Randall, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, room 7A32, National Institutes of Health, Bethesda, Maryland 20892, telephone (301–496–5717), will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Kamal K. Mittal, Executive Secretary, Allergy, Immunology and Transplantation Research Committee, NIAID, NIH, Westwood Building, room 3A06, Bethesda, Maryland 20892, telephone (301–496–3528), will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: April 23, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90–10485 Filed 5–4–90; 8:45 am]

BILLING CODE 4140–01–M

National Library of Medicine; Meeting of the Literature Selection Technical Review Committee

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Literature Selection Technical Review Committee, National Library of Medicine, on June 14–15, 1990, convening at 9 a.m. on June 14 an at 8:30 a.m. on June 15 in the Board Room of the National Library of Medicine, Building 38, 8600 Rockville Pike, Bethesda, Maryland.

The meeting on June 14 will be open to the public from 9 a.m. to 10 a.m. for the discussion of administrative reports and program developments. Attendance by the public will be limited to space available.

In accordance with provisions set forth in section 552b(c)(9)(B), title 5, U.S.C., Public Law 92–463, the meeting will be closed on June 14 from approximately 10 a.m. to 5 p.m. and on June 15 from 8:30 a.m. to adjournment for the review and discussion of individual journals as potential titles to be indexed by the National Library of Medicine. The presence of individuals associated with these publications could hinder fair and open discussion and evaluation of individual journals by the Committee members.

Mrs. Lois Ann Colaianni, Executive Secretary of the Committee, and Associate Director, Library Operations, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, telephone number: 301–496–6921, will provide a summary of the meeting, rosters of the committee members, and other information pertaining to the meeting.

Dated: April 23, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90-10486 Filed 5-4-90; 8:45 am]

BILLING CODE 4140-01-M

National Library of Medicine; Meetings of the Board of Regents and EP Subcommittee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Board of Regents of the National Library of Medicine on June 7-8, 1990, in the Board Room of the National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland. The Extramural Programs Subcommittee will meet on June 6 in the 5th-floor Conference Room, Building 38A from 2 p.m. to 3:30 p.m. The meeting will be closed to the public.

The meeting of the Board will be open to the public from 9 a.m. to approximately 2 p.m. on June 7 and from 9 a.m. to approximately 12 noon on June 8 for administrative reports and program discussions. Attendance will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4), 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, the entire meeting of the Extramural Programs Subcommittee on June 6 will be closed to the public, and the regular Board meeting on June 7 will be closed from approximately 2 p.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert B. Mehnert, Chief, Office of Inquiries and Publications Management, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, Telephone Number: 301-496-6308, will furnish a summary of the meeting, rosters of Board members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.879—Medical Library Assistance, National Institutes of Health)

Dated: April 23, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90-10487 Filed 5-4-90; 8:45 am]

BILLING CODE 4140-01-M

Human Gene Therapy Subcommittee of the Recombinant DNA Advisory Committee; Meeting

Pursuant to Public Law 92-463, notice is hereby given of a meeting of the Human Gene Therapy Subcommittee (a subcommittee of the Recombinant DNA Advisory Committee) at the National Institutes of Health (NIH), Building 31C, Conference Room 6, 9000 Rockville Pike, Bethesda, Maryland 20892, on June 1, 1990. The Human Gene Therapy Subcommittee will meet from approximately 9 a.m. to adjournment at approximately 5 p.m. This meeting will be open to the public to discuss the following proposed actions under the NIH Guidelines for Research Involving Recombinant DNA Molecules:

I. Amendment of Appendix D of the NIH Guidelines Regarding a Human Gene Therapy Protocol

Following the subcommittee's initial consideration during the March 30 meeting, the subcommittee decided to continue discussion at the June 1 meeting on the human gene therapy clinical protocol entitled, "Treatment of Severe Combined Immunodeficiency Disease (SCID) Due to Adenosine Deaminase (ADA) Deficiency with Autologous Lymphocytes Transduced with a Human ADA Gene." This discussion will focus on reports provided by committee members designated to review the protocol.

II. Addition to Appendix D of the NIH Guidelines Regarding a Human Gene Therapy Protocol

In a letter dated April 16, 1990, Dr. Steven A. Rosenberg indicated his intention to submit a human gene therapy clinical protocol to the Human Gene Therapy Subcommittee and the Recombinant DNA Advisory Committee for formal review and approval. The title of this protocol is "Gene Therapy of Patients with Advanced Cancer Using Tumor Infiltrating Lymphocytes Transduced with the Gene Coding for Tumor Necrosis Factor."

III. Other matters to be considered by the Subcommittee

Attendance by the public will be limited to space available. Members of the public wishing to speak at these meetings may be given such opportunity at the discretion of the Chair.

Further information can be obtained from Dr. Nelson A. Wivel, Director, Office of Recombinant DNA Activities, National Institutes of Health, Building 31, Room 4B11, Bethesda, Maryland 20892, telephone (301) 496-9838, fax (301) 496-9839. Additional documentation supporting these requests and a roster of committee members will be distributed at the meeting. Also, this material is available upon request from the Office of Recombinant DNA Activities. A summary of the meeting will be available at a later date.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592, June 11, 1980) requires a statement concerning the official government programs contained in the Catalog of Federal Domestic Assistance. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every Federal research program in which DNA recombinant molecule techniques could be used, it has been determined not to be cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the Catalog of Federal Domestic Assistance are affected.

Dated: May 1, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90-10482 Filed 5-4-90; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N-90-3076]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to

the proposal by name and should be sent to: Scott Jacobs, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street Southwest, Washington, DC 20410, telephone (202) 755–6050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including numer of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: May 1, 1990.

John T. Murphy,

Director, Information Policy and Management Division.

Proposal: Loan Level Reporting for the GNMA Mortgage-Backed Securities Program.

Office: Government National Mortgage Association.

Description of the Need for the Information and its Proposed Use: GNMA needs to collect loan level data from its more than 900 issuers to perform risk analysis, compliance monitoring, and cost analyses regarding its mortgage backed securities.

Form Number: None.

Respondents: Businesses or other for-profit.

Frequency of Submission: Quarterly.

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information collection	950		4		5		19,000

Total Estimated Burden Hours: 19,000.

Status: New.

Contact: Guy S. Wilson, HUD, (202) 755–8772, Scott Jacobs, OMB, (202) 395–6880.

Dated: May 1, 1990.

[FR Doc. 90–10571 Filed 5–4–90; 8:45 am]

BILLING CODE 4210–01–M

Office of the Assistant Secretary for Community Planning and Development

[Docket No. D–90–917; FR–2803–D–01]

Amendment to Redelegation of Authority With Respect to Section 312 Rehabilitation Loan Program

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Amendment to redelegation of authority.

SUMMARY: On April 9, 1981, at 46 FR 21244, the Assistant Secretary for Community Planning and Development redelegated to Regional and Field officials the authority to exercise the power and authority of the Secretary of Housing and Urban Development with respect to the Rehabilitation Loan Program under Section 312 of the Housing Act of 1964, with certain exceptions. This Notice amends that redelegation to add an exception to limit the loan approval authority of Community Planning and Development Rehabilitation Management Specialists to approval of single family loans.

EFFECTIVE DATE: May 1, 1990.

FOR FURTHER INFORMATION CONTACT: Richard R. Burk, Director, Rehabilitation Loans and Homesteading Division, Office of Urban Rehabilitation, Department of Housing and Urban Development, 451 Seventh Street SW., room 7168, Washington, DC 20410. Telephone (202) 755–0367 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: This Notice amends the redelegation of authority, published on April 9, 1981 at 46 FR 21244, with respect to the authority of Community Planning and Development (CPD) Rehabilitation Management Specialists in Regional and Field Offices to approve certain rehabilitation loans authorized by section 312 of the Housing Act of 1964, as amended. Under that redelegation, CPD Rehabilitation Management Specialists were authorized to approve section 312 loans of any type, including loans on nonresidential, multifamily or mixed use properties. Under this Notice, a new amendment is being added to the list of exceptions in section A of the redelegation of authority published on April 9, 1981. This amendment eliminates the authority of CPD Rehabilitation Management Specialists to approve loans on nonresidential, multifamily or mixed use properties. This change will require that a higher level official named in the existing redelegation approve all Section 312 loans other than single family loans. CPD Rehabilitation Management Specialists will continue to have the authority to approve Section 312 single family loans.

Accordingly, the redelegation of authority, published in the **Federal Register** on April 9, 1981 at 46 FR 21244, is further amended by adding a new subparagraph 6 to the exceptions in section A as follows:

(6) With respect to Community Planning and Development Rehabilitation Management Specialists only, approve Section 312 loans on nonresidential, multifamily (five or more units), or mixed-use properties.

Authority: Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. § 3535(d)).

Dated: May 1, 1990.

Anna Kondratas,

Assistant Secretary for Community Planning and Development.

[FR Doc. 90–10572 Filed 5–4–90; 8:45 am]

BILLING CODE 4210–29–M

Office of Policy Development and Research

[Docket No. N-90-3075]

Commission On Regulatory Barriers To Affordable Housing; Meeting

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice of open meeting.

SUMMARY: The Commission was established on March 14, 1990 in accordance with the provisions of the Commission's charter and the Federal Advisory Committee Act (FACA). The Commission was created to advise the Secretary on the nature and impact upon costs, of Federal, State and local regulations governing the construction of housing and to present its findings as well as advisory recommendations as to possible remedial Federal, State, and local actions that can be taken to eliminate excessive, duplicative or unnecessary regulations that increase the cost of housing. This is a notice announcing the first meeting of the Commission.

TIME AND PLACE: The Commission will meet on Thursday, May 31, 1990 from 9:30 a.m. to approximately 4:30 p.m. The meeting will take place at Loew's L'Enfant Plaza Hotel, 480 L'Enfant Plaza, SW., Washington, DC 20024. This is an open meeting.

AGENDA: The Commission will address the following during its initial meeting.

1. A discussion of the Commission's mandate, the problems to be addressed and the subject areas to be covered during the Commission's tenure.

2. A discussion of how the Commission will be organized and the manner in which it will conduct its business.

3. Adoption of a working schedule and dates when subsequent meetings, hearings, and written materials can be expected.

4. A discussion of the resources available and how they will be allocated to achieve Commission obectives.

5. A discussion of the activities the Commission desires to undertake in support of its business and in preparation of the final report.

PUBLIC PARTICIPATION: The public is invited to submit written comments on any aspect of the Commission's mandate or activities. The last 30 minutes of the meeting will be set aside for oral comments and questions. The Commission will also consider the possibility of subsequent public hearings.

FOR FURTHER INFORMATION CONTACT: David Engel, Office of Policy Development and Research, room 8140, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone: (202) 755-4370. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: In accordance with the requirements of the Federal Advisory Committee Act (FACA), the Secretary has appointed a balanced Commission consisting of present and formerly elected officials; appointed public officials; recognized experts; homebuilders with extensive knowledge of the regulatory process; and, individuals with a concern for or representing the interests of low- and moderate-income housing consumers.

The Commission members are:

Jerry Abramson, Mayor, Louisville, KY
Thomas Ludlow Ashley, President, Association of Bank Holding Companies, Washington, DC
Larry Arnn, President, The Claremont Institute, Montclair, CA
Robert J. Buchert, President, American Heritage Construction and Development Corp., Cincinnati, OH
Stuart Butler, Director, Domestic Policy Studies, Heritage Foundation, Washington, DC
Greenlaw Grupe, Jr., Chairman/CEO, Grupe Company, Stockton, CA
Barbara M. Carey, Commissioner, Metro-Dade County, Miami, FL
Maureen Higgins, Director, California Department of Housing and Community Development, Sacramento, CA
Gale Cincotta, Executive Director, National Training and Information Center, Chicago, IL
Thomas H. Kean, President, Drew University, Madison, NJ
Joanne M. Collins, Member of City Council, Kansas City, MO
John T. Maldonado, Director, Colorado Division of Housing, Denver, CO
Thomas Cook, Director of Housing and Land Use, Bay Area Council, San Francisco, CA
Rick Mandell, Vice President, The Greater Construction Corp., Altamonte Springs, FL
Anthony Downs, Senior Fellow, Brookings Institution, Washington, DC
James C. Miller III, Chairman, Citizens for a Sound Economy, Washington, DC
J. Roger Glunt, President, Glunt Building Corp., Turtle Creek, PA
Sue Myrick, Mayor, Charlotte, NC
Kimi Gray, President, Kenilworth-Parkside, Management Corporation, Washington, DC
Robert B. O'Brien, Jr., Chairman/CEO, Carteret Savings Bank, Morristown, NJ
Paul Weyrich, President, Free Congress Research and Education Foundation, Washington, DC
Robert L. Woodson, President, National Center for Neighborhood Enterprise, Washington, DC

Dated: April 30, 1990.

John C. Weicher,

Assistant Secretary for Policy Development and Research, United States Department of Housing and Urban Development.

[FR Doc. 90-10573 Filed 5-4-90; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV-930-00-4212-24; N-3419]

Termination of Segregation and Opening Order

April 24, 1990.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice terminates the segregative effect of airport lease application N-3419, and opens the lands to the operation of the public land laws, including location under the mining laws.

EFFECTIVE DATE: June 6, 1990.

FOR FURTHER INFORMATION CONTACT: Ben Collins, District Manager, Bureau of Land Management, Las Vegas District Office, P.O. Box 26569, Las Vegas, NV 89126, (702) 646-8800.

SUPPLEMENTARY INFORMATION: Pursuant to 43 CFR 2091.3-2(a)(2), the segregative effect on the following described lands will terminate on (30 days from date of publication):

Mount Diablo Meridian, Nevada

T. 3 S., R. 67 E.,
Sec. 23, W½,NW¼, N½SW¼.

The airport lease application was filed on December 5, 1968, at which time the lands became segregated from all forms of appropriation under the public land laws and location under the mining laws. A lease was subsequently issued effective December 18, 1969. Said lease has recently been relinquished and the case closed.

At 10 a.m. on June 6, 1990, the land will be open to the operation of the public land laws, subject to valid existing rights. All valid applications received prior to 10 a.m. on June 6, 1990, will be considered as simultaneously filed. All other applications received will be considered in the order of filing.

At 10 a.m. on June 6, 1990, the land will also be open to location under the mining laws. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C., sec.

38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

The land remains open to mineral leasing and material sale laws.

Fred Wolf,

Acting State Director, Nevada.

[FR Doc. 90-10445 Filed 5-4-90; 8:45 am]

BILLING CODE 4310-HC-M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731-TA-458-460 (Preliminary)]

Polyethylene Terephthalate Film, Sheet, and Strip From Japan, the Republic of Korea, and Taiwan

AGENCY: United States International Trade Commission.

ACTION: Institution of preliminary antidumping investigations and scheduling of a conference to be held in connection with the investigations.

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigations Nos. 731-TA-458-460 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States if materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Japan, the Republic of Korea, and Taiwan of polyethylene terephthalate (PET) film, sheet, and strip,[1] provided for in subheading 3920.62.00 of the Harmonized Tariff Schedule of the United States (previously under item 771.43 of the former Tariff Schedules of the United States), that are alleged to be sold in the United States at less than fair value. As provided in section 733(a), the Commission must complete preliminary antidumping investigations in 45 days, or in this case by June 11, 1990.

[1] The product is defined in these investigations as all gauges of raw, pretreated, or primed PET film, sheet, and strip. Metallized PET film, sheet, and strip, and PET film, sheet, and strip that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer more than 0.00001 inches (0.254 micrometers) thick are not included in this definition.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR part 207), and part 201, subparts A through E (19 CFR part 201).

EFFECTIVE DATE: April 27, 1990.

FOR FURTHER INFORMATION CONTACT: Mary Trimble (202-252-1193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-252-1000.

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted in response to a petition filed on April 27, 1990, by E.I. Du Pont de Nemours & Co., Inc., Wilmington, DE; Hoechst Celanese Corp., Charlotte, NC; and ICI Americas Inc., Wilmington, DE.

Participation in the Investigations

Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than seven (7) days after publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the later entry for good cause shown by the person desiring to file the entry.

Public Service List

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each public document filed by a party to the investigations must be served on all other parties to the investigations (as identified by the public service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Limited Disclosure of Business Proprietary Information Under a Protective Order and Business Proprietary Information Service List

Pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)), the Secretary will make available business proprietary information gathered in these preliminary investigations to authorized applicants under a protective order, provided that the application be made not later than seven (7) days after the publication of this notice in the Federal Register. A separate service list will be maintained by the Secretary for those parties authorized to receive business proprietary information under a protective order. The Secretary will not accept any submission by parties containing business proprietary information without a certificate of service indicating that it has been served on all the parties that are authorized to receive such information under a protective order.

Conference

The Director of Operations of the Commission has scheduled a conference in connection with these investigations for 9:30 a.m. on May 18, 1990, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Mary Trimble (202-252-1193) not later than May 16, 1990, to arrange for their appearance. Parties in support of the imposition of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Written Submissions

Any person may submit to the Commission on or before May 22, 1990, a written brief containing information and arguments pertinent to the subject matter of the investigations, as provided in 207.15 of the Commission's rules (19 CFR 207.15). If briefs contain business proprietary information, a nonbusiness proprietary version is due May 23, 1990. A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with section 201.8 of the rules (19 CFR 201.8). All written submissions except for business proprietary data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any information for which business proprietary treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Business Proprietary Information." Business proprietary submissions and requests for business proprietary treatment must conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules (19 CFR 201.6 and 207.7).

Parties which obtain disclosure of business proprietary information pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)) may comment on such information in their written brief, and may also file additional written comments on such information no later than May 25, 1990. Such additional comments must be limited to comments on business proprietary information received on or after the written briefs. A nonbusiness proprietary version of such additional comments is due May 29, 1990.

Authority

These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

By order of the Commission.

Issued: May 1, 1990.

Kenneth R. Mason,

Secretary.

[FR Doc. 90–10540 Filed 5–4–90; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31640]

KCT Railway Corp.; Acquisition and Operation Exemption

The KCT Railway Corporation (KCT) has filed a notice of exemption to acquire and operate approximately 153 miles of rail lines owned by The Atchison, Topeka and Santa Fe Railway Company (Santa Fe). The rail lines are located in Colorado, Kansas, and Texas, as follows: (1) Between milepost 58+1368 fet, at Ottawa, KS, and milepost 108+2185 feet, near Iola, KS (Tulsa Subdivision); (2) between milepost 0+1319 feet, at Sealy, TX, and milepost 42+1260 feet, near Wharton, TX (Matagorda Subdivision); (3) between milepost 0+319.4 feet, at Rayner Junction, TX, and milepost 9+2904 feet, near Garwood, TX (Garwood Subdivision); (4) between milepost 82+2632 feet, near Wadsworth, TX, and milepost 90+3760 feet, near Matagorda, TX, (Matagorda Subdivision); (5) between milepost 7+4942 feet, near New Gulf, TX, and milepost 30+327.5 feet near Smither's Lake, TX (Hall Subdivision); (6) from milepost 0+1262.7 feet, near Lamar, CO, to milepost 4.2798 feet, near Wilson Junction, CO (Lamar Subdivision) and then to milepost 36+2534 feet, near Wiley, CO (A.V. Subdivision); and (7) between mileposts 91+1742 feet and 93+908 feet near Swink, CO (A.V. Subdivision)[1] The transaction is expected to be consummated on May 2, 1990.

Any comments must be filed with the Commission and served on: Kevin M. Sheys, Weiner, McCaffrey, Brodsky, Kaplan & Levin, P.C., suite 800, 1350 New York Avenue NW., Washington, DC 20005–4797.

KCT shall retain its interest in and take no steps to alter the historic integrity of all sites and structures on the line that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: May 1, 1990.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 90–10563 Filed 5–11–90; 8:45 am]

BILLING CODE 7035–01–M

[1] The Wadsworth-Matagorda, TX, Rayner Junction-Garwood, TX, New Gulf-Smither's Lake, TX, and Swink, CO segments have not had any originating or terminating traffic in over 2 years. Unless it receives new information (*i.e.*, I assume this means that KCT stands ready to operate these lines if sufficient traffic materializes), KCT states that it expects to seek Commission authority to discontinue service and abandon these lines under 49 CFR 1152.50. The Ottawa-Iola, KS, Sealy-Wharton, TX, and Lamar-Wiley, CO segments have had very light traffic density over the last 2 years. KCT submits that if it is unable to operate one or more of these lines profitably, it will seek Commission approval to discontinue service and abandon these lines as well.

The authority granted under this class exemption is for acquisition and operation only and KCT is expected to make a good faith effort to operate these lines.

DEPARTMENT OF JUSTICE

Lodging of Final Judgment by Consent

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on April 30, 1990 a Joint Motion For Stay and Stipulation For Settlement in *Enoxy Coal, Inc.* v. *Lee M. Thomas*, Civil Action No. 87–49–E, was filed with the United States District Court for the Northern District of West Virginia.

The counterclaim filed by the United States in 1987 pursuant to section 309(b) and (d) of the Clean Water Act, 33 U.S.C. 1319(b) and (d), sought injunctive relief and civil penalties for alleged unpermitted discharges of pollutants and by Enoxy Coal, Inc. of its National Pollution Discharge Elimination System ("NPDES") permits for discharges of wastewater into Ten Mile Creek from its surface coal mine located in Upshur County, West Virginia.

The Joint Motion for Stay and Stipulation For Settlement proposes to settle the counterclaim of the United States with the issuance by the West Virginia Department of Natural Resources of final NPDES permits WV0067601 and WV0067881 which contain conditions substantially the same as the draft permits. Under the terms of the settlement, Enoxy Coal, Inc. and the current owner and operator of the subject mining facility, Island Creek Mining Company, agree not to object to the issuance of the NPDES permits.

The Department of Justice will receive comments relating to the proposed settlement for a period of thirty days from the data of publication of this notice. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C., 20530, and should refer to *Enoxy Coal, Inc.* v. *Lee M. Thomas*, Civil Action No. 87–49–E, DOJ Ref. No. 90–5–1–1–3104. The proposed joint motion and stipulation may be examined at the office of the United States Attorney, Room 247, Federal Building, 1125–1141 Chapline Street, Wheeling, West Virginia 26003. Copies of the joint motion and stipulation may also be examined and obtained in person at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Room 1517, Tenth and Pennsylvania Avenue, NW., Washington, DC. A copy of the joint motion and stipulation 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.

Richard B. Stewart,

Assistant Attorney General Land and Natural Resources Division.

[FR Doc. 90–10451 Filed 5–4–90; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application No. D-8004 et al.]

Proposed Exemptions; Progressive Living Structures, Inc.; Profit Sharing Plan, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restriction of the Employee Retirement income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this Federal Register Notice. Comments and request for a hearing should state the reasons for the writer's interest in pending exemption.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, room N-5671, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, room N-5507, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Progressive Living Structures, Inc., Profit Sharing Plan (the Plan) Located in Loveland, Colorado

[Application No. D-8004]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the extension of credit between the Plan and Progressive Living Structures, Inc. (the Employer), the sponsor of the Plan, which resulted from the Plan's acquisition on June 6, 1988 of a discounted promissory note (the Note) secured by a certain parcel of improved real property owned by the Employer, provided that the terms of the transaction are at least as favorable to the Plan as an arm's-length transaction involving an unrelated party.

EFFECTIVE DATE: If the proposed exemption is granted, the exemption will be effective as of December 26, 1989.

Summary of Facts and Representations

1. The Plan is a profit sharing plan which, as of September 30, 1988, had 11 participants and total assets of $81,388. The trustee of the Plan is Leo J. Schuster (Mr. Schuster). The custodian of the Plan's assets is Home Federal Savings and Loan Association of the Rockies, which has its home office at 300 West Oak Street, Fort Collins, Colorado.

2. The Employer is a Colorado corporation, located at 4190 North Garfield Avenue in Loveland, Colorado. The Employer is a real estate construction firm. Mr. Schuster owns 80% of the issued and outstanding shares of the Employer.

3. The Note, in the face amount of $27,300, was made on May 13, 1985 between Janet A. Armstrong and Frances A. Moore, as initial obligees (the Initial Obligees) and Steven A. Swartz and Sherry A. Swartz, as initial obligors (the Initial Obligors). Neither the Initial Obligees nor the Initial Obligors were parties in interest with respect to the Plan. The Note is a 15-year note which bears interest at a rate of 10% per annum. The Note upon its making was secured by a first deed of trust on a commercial building located at 127 1/2 E. 4th Street, Loveland, Colorado. The Initial Obligors also owned adjoining properties at 125 and 127 E. 4th Street.

On December 9, 1987, the Employer purchased the properties located at 125, 127, and 127 1/2 E. 4th Street for $115,000 from the Initial Obligors and thereby assumed their obligations on the Note. The Employer improved and combined the properties into one commercial building (the Property) which is currently leased to Petit Cafe, Inc., a Colorado corporation, which operates the Property as a restaurant. All issued and outstanding shares of Petit Cafe are owned by Mr. Schuster.

4. On June 6, 1988, the Plan purchased the Note for $17,000 from the Initial Obligees. At that time, the Note had an outstanding principal balance of approximately $24,459. As a result of this discounted purchase price, the applicant states that the Note will yield approximately 18% to the Plan if held until maturity. The Note represented approximately 20.9% of the total assets of the Plan at the time of the Plan's acquisition of the Note.

5. The Employer acknowledges that the acquisition and holding of the Note are prohibited transactions under the Act as a result of the Employer's ownership of the Property. The Employer states that Form 5330, Return of Initial Excise Taxes Relating to Pension and Profit Sharing Plans, will be filed with the Internal Revenue Service and that all appropriate excise taxes for the past prohibited transactions will be paid for the period from June 6, 1988 until the effective date of the proposed exemption, within 60 days of a grant of the exemption.

6. On December 26, 1989, the Employer granted to the Plan as additional security for the Note, second deeds of trust on the other two portions of the Property which were not used to

secure the Note. The Employer states that these second deeds of trust ensure that the Plan can foreclose on all of the Property, rather than only a portion of the Property, in the event of a default on the Note by the Employer. The applicant states further that two other parties are holding first deeds of trust on the other two portions of the Property. However, these parties are unrelated to the Employer and are not parties in interest with respect to the Plan. The outstanding principal balance of all encumbrances, including the Note, totalled approximately $69,545, as of February 15, 1989.

7. The Property was appraised on January 6, 1989 by Joseph Tarantino, G.R.I. (Mr. Tarantino), an independent, qualified real estate appraiser in Loveland, Colorado, as having a fair market value of $118,000.

The applicant states that the fair market value of the Property, as established by Mr. Tarantino, was approximately 165% of the total amount of all liens encumbering the Property, as of February 15, 1989. In addition, the fair market value of the Property greatly exceeds the outstanding principal balance of the Note.

8. As of July 28, 1989, the Employer retained the First National Bank of Loveland (the Bank) to act as an independent fiduciary for the Plan in connection with the continued holding of the Note by the Plan. The Bank agreed to evaluate the Note on behalf of the Plan and to monitor the Note for the Plan until maturity. The Bank acknowledges its duties, responsibilities and liabilities under the Act in acting as a fiduciary for the Plan.

9. The Bank has reviewed the terms of the Note and has concluded that the Note is a reasonable investment for the Plan. The Bank states that it would consider making a similar investment, under the same security and circumstances, for accounts administered by the Bank. The Bank concludes that the continued holding of the Note by the Plan is in the best interest of the Plan and its participants and beneficiaries and would be a better alternative than the Plan selling the Note and failing to realize an 18% yield to maturity.

The Bank represents that it is monitoring the receipt of monthly payments on the Note by the Plan. In addition, the Bank is authorized to act on behalf of the Plan in connection with pursuing foreclosure, or any other remedy at law or in equity, should a default on the Note occur.

The Bank states that it will have the first deed of trust on a portion of the Property as security for the Note, plus additional second deeds of trust on the remaining components of the Property. Therefore, the Bank represents that in the event of a default on the Note, it will foreclose on all of the Property, as a result of the additional security which the Employer granted to the Plan on December 26, 1989. The Bank will ensure that the proceeds from the sale of the Property will be used to satisfy all amounts due to the Plan on the Note.

The Bank states that it will monitor the fair market value of the Property, as appraised by an independent, qualified appraiser, to ensure that the value of the Property continues to adequately secure the outstanding principal balance of the Note. The Bank states further that if the value of the Property ever falls below 150% of the total liens on the Property, it will require that additional property from the Employer be used as security for the Note.

10. In summary, the applicant represents that the transaction meets the statutory criteria of section 408(a) of the Act and section 4975(c)(2) of the Code because: (a) The Plan acquired the Note at a discounted price which will yield approximately an 18% return to the Plan if held until maturity; (b) the Note is secured by the Property, which has a fair market value, as established by an independent appraiser, that greatly exceeds the outstanding principal balance of the Note and is approximately 165% of the total amount of all liens encumbering the Property; (c) the Bank, as an independent fiduciary for the Plan, has evaluated the Note and determined that the continued holding of the Note by the Plan is in the best interest of the Plan and its participants and beneficiaries; and (d) the Bank is monitoring the Note on behalf of the Plan and will take any action necessary to safeguard the Plan's interest, including adding additional property as security for the Note or foreclosing on the Property in the event of default.

FOR FURTHER INFORMATION CONTACT: Mr. E. F. Williams of the Department, telephone (202) 523–8883. (This is not a toll-free number.)

SPI Group Pension Plan Trust (the Pension Plan) and SPI Group Profit Sharing Plan Trust (the PS Plan, collectively, the Plans) Located in San Leandro, California

[Application No. D–8132]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975(c)(1) (A) through (E) of the Code, shall not apply to a proposed purchase of an installment note (the Note) by the Plans from the SPI Group, the sponsor of the Plans (the Employer), and as such a party in interest with respect to the Plans, provided that: (1) The purchase price will be the lesser of the outstanding principal plus unpaid, but accrued interest or the fair market value at the time of the purchase, and (2) On the date the Plans purchase the Note, the Plans will be named as the beneficiary and loss payee with respect to fire and liability insurance coverage on an industrial building (the Building), which secures the Note.

Summary of Facts and Representations

1. The Plans, established on January 1, 1973, are a pension plan and a profit sharing plan which have 3 participants each. As of December 31, 1988, the PS Plan had $765,613 in total assets and the Pension Plan had $643,287 in total assets. The current trustee of the Plans is Michael T. Ogles, who is also the president of the Employer. The Employer is a California corporation engaged in the food processing business.

2. The original amount of the Note was $270,000. The Note is currently between the Employer as the lender and Murray L. Kelsoe (Mr. Kelsoe), an independent third party, as the borrower. Principal and interest are payable in equal monthly installments for a 10 year period beginning on October 30, 1987, and continuing until September 30, 1997. The Note currently provides for an interest rate of 10 percent, but can be adjusted on September 30, 1992, pursuant to the prime rate charged at that time by the Bank of America. In the case the rate changes, the Note provides for reamortization for the remaining term of the loan. The Note also provides for no prepayment penalty. In any event the minimum interest rate on the Note is 10 percent and the maximum interest rate is 13 percent. The Note also provides for a late charge of 6 percent for any late installment. Further, the Note is secured by a first deed of trust on the Building owned by Mr. Kelsoe and located in San Leandro, California.

3. An appraisal of the Note was prepared on September 22, 1989, by Joel Vuylsteke (Mr. Vuylsteke), an executive vice president of Alameda First National Bank, who is independent of all the parties involved in the transaction. Mr. Vuylsteke represents that he has

experience working with real estate and commercial loans and that he is a member of the California Bankers Association. Mr. Vuylsteke concludes that, as of September 20, 1989, the fair market value of the Note was its current balance of $236,687.32.

4. The appraisal of the Building was prepared by James H. Shaw, MAI (Mr. Shaw), an independent, qualified appraiser with James H. Shaw & Associates. Mr. Shaw relied primarily on the sales comparison and income capitalization appraisal methods and concluded that, as of August 29, 1989, the fair market value of the Building was $375,000.

5. Mr. Tom Cariveau (Mr. Cariveau), of Tom Cariveau Fiduciary Services, will serve as an independent fiduciary with respect to the Plan's prospective purchase of the Note. Mr. Cariveau represents that he is independent of all the parties involved in the transaction and that he has no prior professional or personal association with any of the parties. Mr. Cariveau further represents that he is qualified to serve as an independent fiduciary with respect to this transaction due to his employment as a trust administrator at the Exchange Bank in Santa Rosa, California where he dealt with ERISA pension plans. Mr. Cariveau thus represents that he understands the duties and responsibilities of an ERISA fiduciary. Mr. Cariveau also states that the Note represent5 a safe investment which is in the best interest of the Plans. Furthermore, Mr. Cariveau will verify and monitor the payments on the Note. He also represents that the Plans' investment portfolios are currently focused toward short term cash investments and that acquisition of the Note will add an intermediate range investment to their portfolios. After the purchase of the Note, the Plans' portfolios will be better diversified with an overall improved rate of return.

6. With respect to the proposed transaction, each of the Plans will purchase 50% of the Note, but in no event will the amount invested in the Note account for more than 25% of the assets of either Plan. The applicant represents that the Plans will pay the lessor of the fair market value or the outstanding principal plus unpaid, but accrued interest of the Note at the time of the purchase. Further, the Plans will pay none of the expenses associated with the transfer of the Note. The applicant has also agreed that on the date when the Note is purchased by the Plans, the Plans will be named as the beneficiary and loss payee with respect to the fire and liability insurance coverage on the Building.

7. In summary, the applicant represents that the transaction satisfies the statutory criteria of section 408(a) of the Act and section 4975(c)(2) of the Code because:

(a) The purchase price will be the lessor of the outstanding principal plus accrued but unpaid interest or the fair market value at the time of the sale;

(b) The proposed purchase will be a one-time cash transaction;

(c) The Plans will pay no expenses associated with the purchase;

(d) The fair market value of the Note and of the Building, which serves as collateral for the Note, has been determined by independent, qualified appraisers;

(e) The proposed purchase of the Note was evaluated by a qualified independent fiduciary who determined that the acquisition of the Note would be in the best interest of the Plans;

(f) The independent fiduciary will monitor and verify the payments on the Note;

(g) Each of the Plans will invest a maximum of 25 percent of their assets in a 50 percent share of the Note; and

(h) On the date when the Note is purchased by the Plans, the Plans will be named as the beneficiary and loss payee with respect to the fire and liability insurance coverage on the Building.

FOR FURTHER INFORMATION CONTACT: Ekaterina A. Uzlyan of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

Teamsters Local No. 20 Insurance, Health and Welfare Plan and Trust (the Plan) Located in Toledo, OH

[Application No. D–8153]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) of the Act shall not apply to: (1) The assignment of a lease (the Lease) relating to certain improved real property (the Dental Care Center) by the Plan to Donald R. Curtis, D.D.S., Inc. (Curtis), a party in interest with respect to the Plan; and (2) the cash sale by the Plan to Curtis, of all of the equipment (the Equipment), furniture (the Furniture), furnishings (the Furnishings), fixtures (the Fixtures), inventory (the Inventory) and leasehold improvements (the Leasehold Improvements) that have been placed in the Dental Care Center, provided the terms of the transactions are at least as favorable to the Plan as those obtainable in arm's length transactions with an unrelated party. (The Equipment, Furniture, Furnishings, Fixtures, Inventory and Leasehold Improvements are collectively referred to as the Property.)

Summary of Facts and Representations

1. The Plan, which maintains its administrative offices at 435 South Hawley Street, Toledo, Ohio, is an employee welfare benefit plan established and maintained as a result of collective bargaining between Teamsters Local Union No. 20 I.B.T. (the Union) and various employers (the Contributing Employers) employing members of the collective bargaining unit represented by the Union. The Plan is administered by a ten member board of trustees (the Trustees) in accordance with the provisions of an Amended Agreement and Declaration of Trust and the Act. Of the ten Trustees, five are appointed by the Union and five are appointed by the Contributing Employers. Trustcorp Bank, Ohio is the investment manager for the Plan and, as such, makes all investment decisions for the Plan. As of June 1989, the Plan had net assets of $614,972. As of August 1989, the Plan had approximately 3,000 participants.

2. In 1977, the Trustees determined that it would be desirable to provide dental benefits to Plan participants and their dependents in the Dental Care Center. After extensive study and consideration of this matter, the Trustees decided to establish a dual choice program and to be a provider of dental benefits to those Plan participants and their dependents who did not elect the indemnification form of dental benefits. Although the Trustees determined that they could provide more benefits at a lower cost on a direct provider basis, after making a preliminary decision, the Trustees were unable to find an independent contractor to establish and operate the Dental Care Center. Accordingly, the Trustees made the following arrangements to establish and operate the Dental Care Center:

a. Effective January 1, 1977, the Trustees entered into a lease agreement with Forty-Four Corporation (FFC) as owner-lessor of the premises located in the basement of 435 South Hawley Street, at which the Dental Care Center would operate. FFC is an Ohio non-profit corporation that was organized in the 1960's by Teamsters Joint Council No. 44, an unincorporated association of

which the Union is an affiliate, for the sole and exclusive purpose of holding real property located at the intersection of Anthony Wayne Trail and South Hawley Street, Toledo, Lucas County, Ohio. In accordance with the Lease, the Plan leases the Dental Care Center from FFC for a monthly rental of $1,475 or $17,707, annually. The Lease had an initial duration of ten years and it has been renewed as of January 1, 1987 by the parties for ten additional years. To date, the Plan has paid all rentals owed to FFC in a timely manner and there have never been any defaults or delinquencies by the Plan in making payments under the Lease.

b. Commencing in February 1977, the Trustees purchased from unrelated, but recognized suppliers, all of the equipment, furniture, furnishings, fixtures and leasehold improvements needed to furnish the Dental Care Center. The property ranges from dental X-ray apparatus to structural elements comprising the Dental Care Center. On behalf of the Plan, the Trustees expended a total amount of $250,024 to acquire the Equipment, Furniture, Furnishings and Leasehold Improvements.[1] At present, there are no liens on the Equipment, Furniture, Furnishings and Leasehold Improvements. The current depreciated value of such assets is approximately $41,315, with an annual write-off of $4,398.

c. Also during 1977, the Trustees hired Tolley International Corporation (TIC) of Indianapolis, Indiana as the first administrator of the Dental Care Center. In August 1978, the Trustees terminated their business relationship with Tolley and shortly thereafter hired Health Systems Group, Inc. (HSGI) of Ann Arbor, Michigan as a replacement for TIC.

d. In 1986, the Trustees ended their business relationship HSGI. The Trustees then entered into a provider agreement with Curtis to administer and operate the Dental Care Center. Curtis, which was incorporated in 1988, is an Ohio professional corporation providing all professional and dental services at the Dental Care Center. Donald R. Curtis, D.D.S. (Dr. Curtis), who has been practicing dentistry since 1978, is the sole shareholder of Curtis. At present, Curtis employs a staff of nine employees. Between January through August 1989, Curtis had an average patient load of 660 dental patients. The capitation rates paid by the Plan to Curtis currently average $19.[2]

The Trustees represent that the Lease meets the provisions for statutory exemptive relief under section 408(b)(2) of the Act because the Union Trustees did not exercise any discretion over the terms and conditions of the Lease and they abstained from the discussion and vote to retain FFC as the lessor of the Dental Care Center under the Lease. Similarly, the Trustees acknowledge that TIC, HSGI and Curtis, by virtue of providing dental services to Plan participants and their dependents either in the past or at present became parties in interest with respect to the Plan. In this regard, the Trustees, also represent that the provision of dental services by these entities is covered by section 408(b)(2) of the Act.[3]

3. It is represented that it was never the intention of the Trustees to be involved directly in providing dental benefits at the Dental Care Center. Recently, representatives of Curtis have approached the Trustees with a proposal to take over from the Trustees all aspects of the ownership and operation of the Dental Care Center. In particular, the Plan will assign the Lease of the Dental Care Center to Curtis with a full release of liability by FFC to the Plan. In addition, Curtis will purchase the Property from the Plan. Further, the applicant represents that Curtis will enter into another provider agreement with the Trustees to provide dental benefits to all eligible Plan participants and their dependents for a fee that will be less than the fees that would be paid to other dental care service providers. Therefore, the Trustees request an administrative exemption from the Department to permit the Lease assignment and the sale transaction involving the Property. The Trustees, however, believe that the provision of dental services by Curtis under another provider agreement is covered by the terms and conditions of section 408(b)(2) of the Act. As such, the Trustees do not request administrative exemptive relief for this transaction. The Trustees represent that Dr. Curtis has not exerted any influence over them with regard to the proposed transactions and that they have made an independent determination to enter into the proposed transactions on behalf of the Plan.[4]

4. To evidence the proposed sales transaction, the Plan and Curtis will enter into a Purchase Agreement which provides that the purchase price for the Property will be the greater of: $75,000 [5] or (a) an amount equal to the higher of two independent appraisals of the Equipment, Furniture, Furnishings and Fixtures; plus (b) an amount equal to the appraised value of the Leasehold Improvements as determined by an independent appraiser; plus (c) an amount representing the difference between the full Inventory of supplies on hand at the time Curtis initially took over the Dental Care Center and the amount of Inventory of supplies on hand at the time of the closing. In addition, the Plan will not be required to pay any real estate fees or commissions or incur any other expenses in connection therewith.

5. The Equipment, Furniture, Furnishings and Fixtures have been appraised by Mr. Jim Boehm (Mr. Boehm), Sales Manager of Meer Dental of Beachwood, Ohio. Mr. Boehm represents that he is an independent dental equipment appraiser who has been in dental equipment sales and office design for the past twenty-four years. Mr. Boehm states that his appraisal experience has entailed evaluating dental offices on a regular basis. Mr. Boehm has placed the fair market value of the Equipment, Furniture, Furnishings and Fixtures at $25,440 as of October 15, 1989. Mr. Boehm also states that his evaluation is based on the fair market price of such assets as if his firm were selling the Equipment, Furniture, Furnishings and Fixtures less their installation price and warranties.

In addition, Mr. Marty Keane (Mr. Keane), an equipment manager for Bignall Rental Supply Company of Toledo, Ohio and an independent appraiser with over fifteen years of dental equipment appraisal experience has valued the Equipment, Furniture, Furnishings and Fixtures. In his appraisal report of November 1, 1989 and in an addendum to the appraisal

[1] The applicants state that the Plan has not expended any money on Inventory because such expenses have been borne by the dental care service providers described in representations 2c. and 2d.

[2] The applicants define the capitation rate as the rate per month per eligible Plan participant that is paid by the Plan to Curtis for the benefits of the Dental Care Center program.

[3] In this proposed exemption, the Department expresses no opinion on whether the Lease between the Plan and FFC and the service provider arrangements involving the Plan, TIC, HSGI and Curtis satisfy the terms and conditions of section 408(b)(2) of the Act.

[4] On February 2, 1982, the Department granted exemptive relief that is similar to what is requested herein in Prohibited Transaction Exemption (PTE) 82–20 (47 FR 4777). Although different parties in interest were involved in PTE 82–20, the factual context is identical to that described in this notice of proposed exemption. The Trustees represent that PTE 82–20 was never utilized because the purchasers were unable to close the Lease assignment and sale transactions due to their inability to obtain financing.

[5] In the opinion of the Trustees, this amount represents the value of the business being sold.

report dated February 23, 1990, Mr. Keane has placed the fair market value of Equipment, Furniture, Furnishings and Fixtures at $24,445.

Further, Mr. John J. McGowan (Mr. McGowan), A.S.A., S.C.V., D.C., an independent appraiser affiliated with John J. McGowan and Associates of Moumee, Ohio, has determined the fair market value of the Leasehold Improvements. As of October 19, 1989, Mr. McGowan has valued the Leasehold Improvements at $52,110.

Finally, with respect to the Inventory, the Department notes that no independent appraisals have been performed. The applicants explain that immediately preceding the closing, an inventory of existing supplies will be taken. At such time, Dr. Curtis will pay to the Plan a cash amount equal to the difference between the full Inventory of supplies on hand at the time Dr. Curtis initially took over the Dental Care Center and the amount of the Inventory of supplies on hand at the time of the closing. By definition, the applicants state that such review cannot be performed until the end of the last business day before the closing since supplies are consumed each day the Dental Care Center is open and since Dr. Curtis replenishes the supplies at his own expense. The applicants represent that the cost of the Inventory will not exceed $2,500.

6. In summary, it is represented that the proposed transactions will satisfy the statutory criteria for an exemption under section 408(a) of the Act because: (a) The assignment of the Lease by the Plan to Curtis will relieve the Plan of its leasing obligations to FFC; (b) the sale of the Property by the Plan to Curtis will be a one-time transaction for cash; (c) the Property has been valued at fair market value by qualified, independent appraisers; (d) the Plan will not be required to pay any fees or commissions in connection with the proposed sale; (e) Curtis will continue providing the same dental benefits to Plan participants at a lower cost than other dental care providers; and (f) the Trustees have determined that the transactions are appropriate for the Plan and in the best interest of its participants and beneficiaries.

Notice to Interested Persons

Notice of the proposed exemption will be provided to the Union, participants in the Plan and Contributing Employers within 30 days of the publication in the **Federal Register** of the notice of proposed exemption. The Union and the Contributing Employers will be notified of the proposed exemption by mail. Plan participants will be notified of the proposed exemption by publication in the Union's newsletter, "Team and Wheel." Notification will include a copy of the notice of proposed exemption as published in the **Federal Register** and will inform interested persons of their right to comment on such proposed exemption. Comments are due 60 days after the date of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Jan D. Broady of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Monticello State Bank Retirement Plan and Profit Sharing Plan (the Plans) Located in Monticello, Iowa

(Application Nos. D–8229 and D–8230)

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c) (2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a) and 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale for cash of certain real estate mortgages from the Plans to Monticello State Bank (Monticello), a party in interest with respect to the Plans, provided the Plans receive no less than the greater of (1) the outstanding principal balance plus accrued interest and penalties on the mortgages or (2) the current fair market value of the mortgages at the time of sale.

Summary of Facts and Representations

1. M.S.B. Corporation is a one-bank holding company which owns all of the stock of City State Bank (City). Each shareholder of Monticello at one time received one share of M.S.B. Corporation for each share owned of Monticello stock. Accordingly, with certain exceptions, a common ownership of Monticello and M.S.B. Corporation exists. The Plans were adopted by Monticello and City. The estimated number of participants in the Plans is 42, and the participants are the same in both Plans. The assets of the Retirement Plan totaled $2,088,660 as of December 31, 1989, while those of the Profit Sharing Plan totaled $5,171,053 on the same date. Monticello is the trustee (the Trustee) for both Plans.

Both Plans were terminated as of December 31, 1989. The participants of the Plans will receive either an annuity or a lump-sum distribution, except that the participants in the Profit Sharing Plan who are employees of City will have the option of rolling over their accounts into a new profit sharing plan.

2. The Plans both own certain real estate mortgage contracts as part of their investment portfolios. The Retirement Plan holds four mortgage contracts and the Profit Sharing Plan holds ten mortgages. All but two of the mortgages were originally entered into directly between the Plans and the mortgagors, who had been customers of Monticello.[6] These two mortgage contracts were bought by the Plans from parties unrelated to the Plans or the Plan sponsors. At the time of purchase of the mortgages, the Trustee of the Plans determined that investing in the mortgages would guarantee a fair rate of return with very little risk for the Plans. Monticello services all of the mortgages on behalf of the Plans. However, Monticello has received no fees from the Plans in exchange for such servicing.

3. The Plans obtained an appraisal as to the value of the mortgage contracts from Paul W. Olander (Olander) of the Paul W. Olander Company of Rochester, Minnesota, a bank management firm that provides bank stock valuations, loan reviews and consulting services for community banks in the Midwest. The applicant represents that Olander is independent of Monticello and City and the Plans. The records of the mortgage contracts held by the Trustee were reviewed on December 18 and 19, 1989. Olander states that 13 of the 14 mortgages are collateralized by income producing farm properties. The remaining mortgage is a rural residence. The properties are located in the east central part of Iowa. Olander rated each of the mortgages based on three factors: financial condition of the borrower, repayment performance, and the ratio of the value of the collateral to the balance of the mortgage. According to Olander, the 14 mortgages together had an appraised value of $773,980 as of December 19, 1989.

4. In order to fund all benefits in relation to the termination of the Plans, the Plans propose to sell the real estate mortgages to Monticello. According to the applicant, any forced sale to a third party could well result in the amount received for the mortgages being substantially below their fair market value. Monticello will pay no less than the greater of the then current

[6] The Department expresses no opinion as to whether the Plans entering into mortgages with Monticello customers may have constituted prohibited transactions under section 406 of the Act, and no relief is proposed herein for such transactions.

outstanding balance plus accrued interest and penalty charges on the mortgages or the current appraised value for the mortgages at the time of sale, based on an updated independent appraisal. The Plans will sell all the mortgage contracts to Monticello at the same time. The transaction will be entirely for cash, and the Plans will pay no commissions in regard to the sale.

5. In summary, the applicant represents that the proposed transaction will satisfy the statutory criteria of section 408(a) of the Act because: (1) The transaction will facilitate the provision of annuities or lump-sum distributions to the Plan participants; (2) a sale of the mortgage contracts to a third party could result in the Plans receiving less than fair market value; (3) the current fair market value of the mortgages will be established by an independent appraisal; and (4) the sale of all the mortgage contracts held by the Plans will take place at the same time and will be entirely for cash.

FOR FURTHER INFORMATION CONTACT: Paul Kelty of the Department, telephone (202) 523-8194. (This is not a toll-free number.)

Maryland National Bank (MNB), Located in Columbia, Maryland

[Application No. D-8274]

Proposed Exemption

I. Transactions

A. The restrictions of sections 406(a) and 407(a) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to the following transactions involving trusts and certificates evidencing interests therein:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issuance of certificates between the sponsor or underwriter and an employee benefit plan when the sponsor, servicer, trustee or insurer of a trust, the underwriter of the certificates representing an interest in the trust, or an obligor is a party in interest with respect to such plan;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates; and

(3) The continued holding of certificates acquired by a plan pursuant to subsection I.A. (1) or (2).

Notwithstanding the foregoing, section I.A. does not provide an exemption from the restrictions of sections 406(a)(1)(E), 406(a)(2) and 407 for the acquisition or holding of a certificate on behalf of an Excluded Plan by any person who has discretionary authority or renders investment advice with respect to the assets of that Excluded Plan.[7]

B. The restrictions of sections 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(E) of the Code shall not apply to:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issuance of certificates between the sponsor or underwriter and a plan when the person who has discretionary authority or renders investment advice with respect to the investment of plan assets in the certificates is (a) an obligor with respect to 5 percent or less of the fair market value of obligations or receivables contained in the trust, or (b) an affiliate of a person described in (a); if:

(i) The plan is not an Excluded Plan;

(ii) Solely in the case of an acquisition of certificates in connection with the initial issuance of the certificates, at least 50 percent of each class of certificates in which plans have invested is acquired by persons independent of the members of the Restricted Group and at least 50 percent of the aggregate interest in the trust is acquired by persons independent of the Restricted Group;

(iii) A plan's investment in each class of certificates does not exceed 25 percent of all of the certificates of that class outstanding at the time of the acquisition; and

(iv) Immediately after the acquisition of the certificates, no more than 25 percent of the assets of a plan with respect to which the person has discretionary authority or renders investment advice are invested in certificates representing an interest in a trust containing assets sold or serviced by the same entity.[8] For purposes of this paragraph B.(1)(iv) only, an entity will not be considered to service assets contained in a trust if it is merely a subservicer of that trust;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates, provided that the conditions set forth in paragraphs B.(1) (i), (iii) and (iv) are met; and

(3) The continued holding of certificates acquired by a plan pursuant to subsection I.B. (1) or (2).

C. The restrictions of sections 406(a), 406(b) and 407(a) of the Act, and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c) of the Code, shall not apply to transactions in connection with the servicing, management and operation of a trust; provided:

(1) Such transactions are carried out in accordance with the terms of a binding pooling and servicing arrangement; and

(2) The pooling and servicing agreement is provided to, or described in all material respects in the prospectus or private placement memorandum provided to, investing plans before they purchase certificates issued by the trust.[9]

Notwithstanding the foregoing, section I.C. does not provide an exemption from the restrictions of section 406(b) of the Act or from the taxes imposed by reason of section 4975(c) of the Code for the receipt of a fee by a servicer of the trust from a person other than the trustee or sponsor, unless such fee constitutes a "qualified administrative fee" as defined in section III.S.

D. The restrictions of sections 406(a) and 407(a) of the Act, and the taxes imposed by sections 4975 (a) and (b) of the Code by reason of sections 4975(c)(1) (A) through (D) of the Code, shall not apply to any transactions to which those restrictions or taxes would otherwise apply merely because a person is deemed to be a party in interest or disqualified person (including a fiduciary) with respect to a plan by virtue of providing services to the plan (or by virtue of having a relationship to such service provider described in section 3(14) (F), (G), (H) or (I) of the Act or section 4975(e)(2) (F), (G), (H) or (I) of the Code), solely because of the plan's ownership of certificates.

II. General Conditions

A. The relief provided under part I is available only if the following conditions are met:

[7] Section I.A. provides no relief from sections 406(a)(1)(E), 406(a)(2) and 407 for any person rendering investment advice to an Excluded Plan within the meaning of section 3(21)(A)(ii) and regulation 29 CFR 2510.3-21(c).

[8] For purposes of this exemption, each plan participating in a commingled fund (such as a bank collective trust fund or insurance company pooled separate account) shall be considered to own the same proportionate undivided interest in each asset of the commingled fund as its proportionate interest in the total assets of the commingled fund as calculated on the most recent preceding valuation date of the fund.

[9] In the case of a private placement memorandum, such memorandum must contain substantially the same information that would be disclosed in a prospectus if the offering of the certificates were made in a registered public offering under the Securities Act of 1933. In the Department's view, the private placement memorandum must contain sufficient information to permit plan fiduciaries to make informed investment decisions.

(1) The acquisition of certificates by a plan is on terms (including the certificate price) that are at least as favorable to the plan as they would be in an arm's-length transaction with an unrelated party;

(2) The rights and interests evidenced by the certificates are not subordinated to the rights and interests evidenced by other certificates of the same trust;

(3) The certificates acquired by the plan have received a rating at the time of such acquisition that is in one of the three highest generic rating categories from either Standard & Poor's Corporation (S&P's), Moody's Investors Service, Inc. (Moody's), Duff & Phelps, Inc. (D & P) or Fitch Investors Service, Inc. (Fitch);

(4) The trustee is not an affiliate of any member of the Restricted Group. However, the trustee shall not be considered to be an affiliate of a servicer solely because the trustee has succeeded to the rights and responsibilities of the servicer pursuant to the terms of a pooling and servicing agreement providing for such succession upon the occurrence of one or more events of default by the servicer;

(5) The sum of all payments made to and retained by the underwriters in connection with the distribution or placement of certificates represents not more than reasonable compensation for underwriting or placing the certificates; the sum of all payments made to and retained by the sponsor pursuant to the assignment of obligations (or interests therein) to the trust represents not more than the fair market value of such obligations (or interests); and the sum of all payments made to and retained by the servicer represents not more than reasonable compensation for the servicer's services under the pooling and servicing agreement and reimbursement of the servicer's reasonable expenses in connection therewith; and

(6) The plan investing in such certificates is an "accredited investor" as defined in Rule 501(a)(1) of Regulation D of the Securities and Exchange Commission under the Securities Act of 1933.

B. Neither any underwriter, sponsor, trustee, servicer, insurer, or any obligor, unless it or any of its affiliates has discretionary authority or renders investment advice with respect to the plan assets used by a plan to acquire certificates, shall be denied the relief provided under Part I, if the provision of subsection II.A.(6) above is not satisfied with respect to acquisition or holding by a plan of such certificates, provided that (1) such condition is disclosed in the prospectus or private placement memorandum; and (2) in the case of a private placement of certificates, the trustee obtains a representation from each initial purchaser which is a plan that it is in compliance with such condition, and obtains a covenant from each initial purchaser to the effect that, so long as such initial purchaser (or any transferee of such initial purchaser's certificates) is required to obtain from its transferee a representation regarding compliance with the Securities Act of 1933, any such transferees will be required to make a written representation regarding compliance with the condition set forth in subsection II.A.(6) above.

III. Definitions

For purposes of this exemption—

A. "Certificate" means:

(1) A certificate—

(a) That represents a beneficial ownership interest in the assets of a trust; and

(b) That entitles the holder to pass-through payments of principal, interest, and/or other payments made with respect to the assets of such trust; or

(2) A certificate denominated as a debt instrument—

(a) That represents an interest in a Real Estate Mortgage Investment Conduit (REMIC) within the meaning of section 860D(a) of the Code; and

(b) That is issued by and is an obligation of a trust;

with respect to certificates defined in (1) and (2) for which MNB or any of its affiliates is either (i) the sole underwriter or the manager or co-manager of the underwriting syndicate, or (ii) a selling or placement agent.

For purposes of this exemption, references to "certificates representing an interest in a trust" include certificates denominated as debt which are issued by a trust.

B. "Trust" means an investment pool, the corpus of which is held in trust and consists solely of:

(1) Either

(a) Secured consumer receivables that bear interest or are purchased at a discount (including, but not limited to, home equity loans and obligations secured by shares issued by a cooperative housing association);

(b) Secured credit instruments that bear interest or are purchased at a discount in transactions by or between business entities (including, but not limited to, qualified equipment notes secured by leases, as defined in section III.T);

(c) Obligations that bear interest or are purchased at a discount and which are secured by single-family residential, multi-family residential and commercial real property, (including obligations secured by leasehold interests on commercial real property);

(d) Obligations that bear interest or are purchased at a discount and which are secured by motor vehicles or equipment, or qualified motor vehicle leases (as defined in section III.U);

(e) "Guaranteed governmental mortgage pool certificates," as defined in 29 CFR 2510.3-101(i)(2);

(f) Fractional undivided interests in any of the obligations described in clauses (a)–(e) of this section B.(1);

(2) Property which had secured any of the obligations described in section B.(1);

(3) Undistributed cash or temporary investments made therewith maturing no later than the next date on which distributions are made to certificate holders; and

(4) Rights of the trustee under the pooling and servicing agreement, and rights under any insurance policies, third-party guarantees, contracts of suretyship and other credit support arrangements with respect to any obligations described in section B.(1).

Notwithstanding the foregoing, the term "trust" does not include any investment pool unless: (i) The investment pool consists only of assets of the type which have been included in other investment pools, (ii) certificates evidencing interests in such other investment pools have been rated in one of the three highest generic rating categories by S&P's, Moody's, D & P or Fitch for at least one year prior to the plan's acquisition of certificates pursuant to this exemption, and (iii) certificates evidencing interests in such other investment pools have been purchased by investors other than plans for at least one year prior to the plan's acquisition of certificates pursuant to this exemption.

C. "Underwriter" means:

(1) MNB;

(2) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with MNB; or

(3) Any member of an underwriting syndicate or selling group of which MNB or a person described in (2) is a manager or co-manager with respect to the certificates.

D. "Sponsor" means the entity that organizes a trust by depositing obligations therein in exchange for certificates.

E. "Master Servicer" means the entity that is a party to the pooling and servicing agreement relating to trust assets and is fully responsible for servicing, directly or through subservicers, the assets of the trust.

F. "Subservicer" means an entity which, under the supervision of and on behalf of the master servicer, services loans contained in the trust, but is not a party to the pooling and servicing agreement.

G. "Servicer" means any entity which services loans contained in the trust, including the master servicer and any subservicer.

H. "Trustee" means the trustee of the trust, and in the case of certificates which are denominated as debt instruments, also means the trustee of the indenture trust.

I. "Insurer" means the insurer or guarantor of, or provider of other credit support for, a trust.

Notwithstanding the foregoing, a person is not an insurer solely because it holds securities representing an interest in a trust which are of a class subordinated to certificates representing an interest in the same trust.

J. "Obligor" means any person, other than the insurer, that is obligated to make payments with respect to any obligation or receivable included in the trust. Where a trust contains qualified motor vehicle leases or qualified equipment notes secured by leases, "obligor" shall also include any owner of property subject to any lease included in the trust, or subject to any lease securing an obligation included in the trust.

K. "Excluded Plan" means any plan with respect to which any member of the Restricted Group is a "plan sponsor" within the meaning of section 3(16)(B) of the Act.

L. "Restricted group" with respect to a class of certificates means:

(1) Each underwriter;

(2) Each insurer;

(3) The sponsor;

(4) The trustee;

(5) Each servicer;

(6) Any obligor with respect to obligations or receivables included in the trust constituting more than 5 percent of the aggregate unamortized principal balance of the assets in the trust, determined on the date of the initial issuance of certificates by the trust; or

(7) Any affiliate of a person described in (1)–(6) above.

M. "Affiliate" of another person includes:

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such other person;

(2) Any officer, director, partner, employee, relative (as defined in section 3(15) of the Act), a brother, a sister, or a spouse of a brother or sister of such other person; and

(3) Any corporation or partnership of which such other person is an officer, director or partner.

N. "Control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

O. A person will be "independent" of another person only if:

(1) Such person is not an affiliate of that other person; and

(2) The other person, or an affiliate thereof, is not a fiduciary who has investment management authority or renders investment advice with respect to any assets of such person.

P. "Sale" includes the entrance into a forward delivery commitment (as defined in section Q below), provided:

(1) The terms of the forward delivery commitment (including any fee paid to the investing plan) are no less favorable to the plan than they would be in an arm's length transaction with an unrelated party;

(2) The prospectus or private placement memorandum is provided to an investing plan prior to the time the plan enters into the forward delivery commitment; and

(3) At the time of the delivery, all conditions of this exemption applicable to sales are met.

Q. "Forward delivery commitment" means a contract for the purchase or sale of one or more certificates to be delivered at an agreed future settlement date. The term includes both mandatory contracts (which contemplate obligatory delivery and acceptance of the certificates) and optional contracts (which give one party the right but not the obligation to deliver certificates to, or demand delivery of certificates from, the other party).

R. "Reasonable compensation" has the same meaning as that term is defined in 29 CFR 2550.408c–2.

S. "Qualified Administrative Fee" means a fee which meets the following criteria:

(1) The fee is triggered by an act or failure to act by the obligor other than the normal timely payment of amounts owing in respect of the obligations;

(2) The servicer may not charge the fee absent the act or failure to act referred to in (1);

(3) The ability to charge the fee, the circumstances in which the fee may be charged, and an explanation of how the fee is calculated are set forth in the pooling and servicing agreement; and

(4) The amount paid to investors in the trust will not be reduced by the amount of any such fee waived by the servicer.

T. "Qualified Equipment Note Secured By A Lease" means an equipment note:

(a) Which is secured by equipment which is leased;

(b) Which is secured by the obligation of the lessee to pay rent under the equipment lease; and

(c) With respect to which the trust's security interest in the equipment is at least as protective of the rights of the trust as the trust would have if the equipment note were secured only by the equipment and not the lease.

U. "Qualified Motor Vehicle Lease" means a lease of a motor vehicle where:

(a) The trust holds a security interest in the lease;

(b) The trust holds a security interest in the leased motor vehicle; and

(c) The trust's security interest in the leased motor vehicle is at least as protective of the trust's rights as the trust would receive under a motor vehicle installment loan contract.

V. "Pooling and Servicing Agreement" means the agreement or agreements among a sponsor, a servicer and the trustee establishing a trust. In the case of certificates which are denominated as debt instruments, "Pooling and Servicing Agreement" also includes the indenture entered into by the trustee of the trust issuing such certificates and the indenture trustee.

Summary of Facts and Representations

1. MNB, a national banking association chartered under the provisions of the National Bank Act, is a subsidiary of MNC Financial, Inc., which is a Maryland corporation and a "bank holding company" within the meaning of the Bank Holding Company Act. It is authorized under the provisions of section 24 (Seventh) of the National Bank Act as interpreted by advisory opinions of the Office of the Comptroller of the Currency dated June 16, 1987 and February 16, 1988 (OCC Interpretive Letters No. 388 and 416) to engage in the sale of loans, leases, installment sale contracts and various other forms of assets through collateralized bonds, certificates or securities.

Trust Assets

2. MNB seeks exemptive relief to permit plans to invest in pass-through certificates representing undivided interests in the following categories of trusts: (1) Single and multi-family residential or commercial mortgage investment trusts;[10] (2) motor vehicle

[10] Prohibited Transaction Class Exemption ("PTE") 83–1 (48 FR 895, January 7, 1983), a class exemption for mortgage pool investment trusts, would generally apply to trusts containing single-family residential mortgages, provided that the

Continued

receivable investment trusts; (3) consumer or commercial receivables investment trusts; and (4) guaranteed governmental mortgage pool certificate investment trusts.[11]

3. Commercial mortgage investment trusts may include mortgages on ground leases of real property. Commercial mortgages are frequently secured by ground leases on the underlying property, rather than by fee simple interests. The separation of the fee simple interest and the ground lease interest is generally done for tax reasons. Properly structured, the pledge of the ground lease to secure a mortgage provides a lender with the same level of security as would be provided by a pledge of the related fee simple interest. In all cases, the terms of any ground lease to secure a mortgage will be at least ten years longer than the term of that mortgage.

Trust Structure

4. Each trust is established under a pooling and servicing agreement between a sponsor, a servicer and a trustee. The sponsor or servicer of a trust selects assets to be included in the trust. These assets are receivables which may have been originated by a sponsor or servicer of the trust, by an affiliate of a sponsor or servicer or by an unrelated lender and subsequently acquired by the trust sponsor or servicer.

Prior to the closing date, the sponsor establishes the trust and designates an independent entity as trustee. Prior to or on the closing date, the sponsor conveys to the trust legal title to the assets, and the trustee issues certificates representing fractional undivided interests in the trust assets. MNB, alone or together with other broker-dealers, acts as underwriter or placement agent with respect to the sale of the certificates. Most sales will be either firm commitment underwritings or private placements. In connection with a private placement, MNB may act either as agent or principal. MNB may also act as the lead underwriter for a syndicate of securities underwriters.

Certificate holders are entitled to receive monthly, quarterly or semi-annual installments of principal and/or interest, or lease payments due on the receivables, adjusted, in the case of payments of interest, to a specified rate—the pass-through rate—which may be fixed or variable. When payments are made on semi-annual basis, funds are not permitted to be commingled with the assets of the servicer for any period longer than would be permitted for a monthly-pay security. A segregated account is established in the name of the trustee (on behalf of certificateholders) to hold funds received between distribution dates. The account is under the sole control of the trustee, who invests the account's assets in short-term securities which have received a rating comparable to the rating assigned to the certificates. In some cases, the servicer may be permitted to make a single deposit into the account once a month. When the servicer makes such monthly deposits, payments received from obligors by the servicer may be commingled with the servicer's assets during the month prior to deposit. In no event will the period of time between receipt of funds by the servicer and deposit of these funds in a segregated account exceed one month. Furthermore, in those cases where distributions are made semi-annually, the servicer will furnish a report on the operation of the trust to the trustee on a monthly basis. At or about the time the report is delivered to the trustee, it will be made available to certificateholders and delivered to or made available to each rating agency that has rated the certificates.

5. Some of the certificates will be multi-class certificates. MNB requests exemptive relief for two types of multi-class certificates: "strip" certificates and "fast-pay/ slow-pay" certificates. Strip certificates are a type of security in which the stream of interest payments on mortgages is split from the flow of principal payments and separate classes of certificates are established, each representing rights to disproportionate payments of principal and interest.[12]

"Fast-pay/slow-pay" certificates involve the issuance of classes of certificates having different or identical stated maturities but different payment schedules. Interest and/or principal payments received on the underlying receivables are distributed first to the class of certificates having the earliest stated maturity of principal and/or earlier payment schedule, and oniy when that class of certificates has been paid in full (or has received a specified amount) will distributions be made with respect to the second class of certificates. Distributions on certificates having later stated maturities will proceed in like manner until all the certificateholders have been paid in full. The only difference between this multi-class pass-through arrangement and a single-class pass-through arrangement is the order in which distributions are made to certificateholders. In each case, certificateholders will have a beneficial ownership interest in the underlying assets. In neither case will the rights of a plan purchasing certificates be subordinated to the rights of another certificateholder in the event of default on any of the underlying obligations. In particular, if the amount available for distribution to certificateholders is less than the amount required to be so distributed, all senior certificateholders will share in the amount distributed on a pro rata basis.[13]

6. For tax reasons, the trust must be maintained as an essentially passive entity. Therefore, both the sponsor's discretion and the servicer's discretion with respect to assets included in a trust are severely limited. Pooling and servicing agreements provide for substitution of assets by the sponsor only in the event of defects in loan or lease documentation discovered within a relatively short time after issuance of trust certificates (within 120 days, except in the case of obligations having an original term of 30 years in which case the period will not exceed two years). MNB represents that the sponsor's "right of substitution" is in effect a remedy for certificateholders in the event of the sponsor's breach of its warranty or representations regarding the assets in a trust (for example, where a defect in title to an asset is discovered

applicable conditions of PTE 83-1 are met. MNB requests relief for single-family residential mortgages in this exemption because it would prefer one exemption for all trusts of similar structure.

[11] Guaranteed governmental mortgage pool certificates are mortgage-backed securities with respect to which interest and principal payable is guaranteed by the Government National Mortgage Association (GNMA), the Federal Home Loan Mortgage Corporation (FHLMC), or the Federal National Mortgage Association (FNMA). The Department's regulation relating to the definition of plan assets (29 CFR 2510.3-101(i)) provides that where a plan acquires a guaranteed governmental mortgage pool certificate, the plan's assets include the certificate and all of its rights with respect to such certificate under applicable law, but do not, solely by reason of the plan's holding of such certificate, include any of the mortgages underlying such certificate. The applicants are requesting exemptive relief for trusts containing guaranteed governmental mortgage pool certificates because the certificates in the trusts are plan assets.

[12] It is the Department's understanding that where a plan invests in REMIC "residual" interest certificates to which this exemption applies, some of the income received by the plan as a result of such investment may be considered unrelated business taxable income to the plan, which is subject to income tax under the Code. The Department emphasizes that the prudence requirement of section 404(a)(1)(B) of the Act would require plan fiduciaries to carefully consider this and other tax consequences prior to causing plan assets to be invested in certificates pursuant to this exemption.

[13] If a trust issues subordinated certificates, holders of such subordinate certificates may not share in the amount distributed on a pro rata basis. The Department notes that the exemption does not provide relief for plan investment in such subordinated certificates.

after its inclusion in the trust). The pooling and servicing agreement will impose restrictions on substituted receivables to ensure that the substituted receivables have payment characteristics substantially similar to those of the replaced receivables and are at least as creditworthy as the replaced receivables.

In some cases, the affected receivable would be repurchased, with the purchase price applied as a payment on the affected receivable and passed through to certificateholders.

Parties to Transactions

7. The *originator* of a receivable is the entity that initially lends money to a borrower (obligor), such as a homeowner or automobile purchaser, or leases property to the lessee. The originator may either retain a receivable in its portfolio or sell it to a purchaser, such as a trust sponsor.

Originators of receivables included in the trusts will be financial institutions experienced in the origination of receivables of the type included in a trust. Each trust may contain assets of one or more originators. The originator of the receivables may also function as the trust sponsor or servicer.

8. The duties of a trust *sponsor* are typically limited to depositing receivables in a trust in exchange for certificates issued by the trust that are then sold to investors. The sponsor of a trust typically selects the trustee.

9. The *trustee* of a trust is the legal owner of the obligations in the trust. The trustee is also a party to or beneficiary of all the documents and instruments deposited in the trust, and as such is responsible for enforcing all the rights created thereby in favor of certificateholders.

The trustee will be an independent entity, and therefore will be unrelated to MNB, the trust sponsor or the servicer. MNB represents that the trustee will be a substantial financial institution experienced in trust activities. The trustee receives a fee for its services, which will be paid by the servicer, sponsor or out of the trust assets. For example, the trustee's fees may be paid out of investment earnings on distributed cash or from specified amounts on deposit in the trust, as is the case with the servicer's compensation. The method of compensating the trustee will be specified in the pooling and servicing agreement and disclosed in the prospectus or private placement memorandum relating to the offering of the certificates.

10. The *servicer* of a trust administers the receivables on behalf of the certificateholders. The servicer's functions typically involve, among other things, notifying borrowers of amounts due on receivables, maintaining records of payments received on receivables and instituting foreclosure or similar proceedings in the event of default. In cases where a pool of receivables has been purchased from a number of different originators and deposited in a trust, it is common for the receivables to be "subserviced" by their respective originators and for a single entity to "master service" the pool of receivables on behalf of the owners of the related series of certificates. Where this arrangement is adopted, a receivable continues to be serviced from the perspective of the borrower by the local subservicer, while the investor's perspective is that the entire pool of receivables is serviced by a single, central master servicer who collects payments from the local subservicers and passes them through to certificateholders.

In most cases, the originator and servicer of receivables to be included in a trust and the sponsor of the trust (though they themselves may be related) will be unrelated to MNB. In some cases, however, affiliates of MNB may originate or service receivables included in a trust, or may sponsor a trust.

Certificate Price, Pass-Through Rate and Fees

11. Where the sponsor of a trust is not the originator of receivables included in the trust, the sponsor generally purchases the receivables in the secondary market, either directly from the originator or from another secondary market participant. The price the sponsor pays for a receivable is determined by competitive market forces, taking into account payment terms, interest rate, quality, and forecasts as to future interest rates.

As compensation for the receivables transferred to the trust, the sponsor receives certificates representing the entire beneficial interest in the trust. The sponsor sells these certificates for cash to investors or securities underwriters. In some transactions the sponsor may retain a portion of the certificates for its own account. (In some transactions, the originator may sell receivables to a trust for cash. At the time of the sale, the trustee would sell certificates to the public or to underwriters and use the cash proceeds of the sale to pay the originator for the receivables sold to the trust.)

12. The price of the certificates, both in the initial offering and in the secondary market, is affected by market forces including investor demand, the pass-through interest rate on the certificates in relation to the rate payable on investments of similar types and quality, expectations as to the effect on yield resulting from prepayment of underlying receivables, and expectations as to the likelihood of timely payment.

The pass-through rate for certificates is generally equal to the interest rate on receivables included in the trust minus a specified servicing fee.[14] This rate is generally determined by the same market forces that determine the price of a certificate. There is a direct relationship between the price of certificates and the pass-through rate. For example, if certificates backed by comparable pools of mortgages are sold at different pass-through rates, the certificates having the higher pass-through rate would have a higher purchase price.

13. As compensation for performing its servicing duties, the servicer (who may also be the sponsor, and receive fees for acting in that capacity) will typically retain most or all of the difference between payments received on the receivables and payments payable (at the pass-through rate) to certificateholders. The servicer may receive additional compensation by having the use of the amounts paid on the receivables between the time they are received by the servicer and the time they are due to the trust (which time is set forth in the pooling and servicing agreement). The servicer pays the administrative expenses of servicing the trust, including, in some cases, the trustee's fee, out of its servicing compensation.

The servicer is also compensated to the extent it may provide credit enhancement to the trust or otherwise arrange to obtain credit support from another party. This "credit support fee" may be aggregated with other servicing fees, and is paid out of the payments received on the receivables in excess of the pass-through payments made to certificateholders. In some transactions, however, the "credit support fee" is paid in a lump sum at the time the trust is established.

14. The servicer may be entitled to retain certain administrative fees paid by a third party, usually the obligor. These administrative fees fall into three categories: (a) Prepayment fees; (b) late payment and payment extension fees and other fees related to the

[14] The pass-through rate on certificates representing interests in trusts holding leases is determined by breaking down lease payments into "principal" and "interest" components based on an implicit interest rate.

modification of the terms of an obligation as permitted by the provisions of the pooling and servicing agreement (including the partial release of collateral to the extent provided therein); and (c) fees and charges associated with foreclosure or repossession, the management of foreclosed or repossessed property, or any conversion of a secured obligation into cash proceeds, upon default of an obligation held by a trust.

Compensation payable to the servicer will be set forth or referred to in the pooling and servicing agreement and described in reasonable detail in the prospectus or private placement memorandum relating to the certificates.

15. Payments on receivables may be made by obligors to the servicer at various times during the period preceding any date on which pass-through payments to the trust are due. In some cases, the pooling and servicing agreement may permit the servicer to place these payments in non-interest bearing accounts in itself or to commingle such payments with its own funds prior to the distribution dates. In these cases, the servicer would be entitled to the benefit derived from the use of the funds between the date of payment on a receivable and the pass-through date. Commingled payments may not be protected from the creditors of the servicer in the event of the servicer's bankruptcy. In the event payments on receivables are held in a non-interest bearing account or are commingled with the servicer's own funds, the servicer will be required to deposit such payments by a date specified in the pooling and servicing agreement into an account from which the trustee makes payments to certificate-holders.

16. MNB will receive a fee in connection with the securities underwriting or private placement of certificates. In a firm commitment underwriting, this fee would consist of the difference between what MNB receives for the certificates that it distributes and what it pays the sponsor for those certificates. In a private placement, the fee normally takes the form of an agency commission paid by the sponsor. For some public offerings, MNB may sell certificates on an agency basis in a best efforts underwriting. In this case, MNB would receive an agency commission. In some private placements, MNB may buy certificates as principal, in which case its fee would consist of the difference between what it receives for the certificates that it sells and what it pays the sponsor for these certificates.

Purchase of Receivables by Servicer

17. The applicant represents that as the principal amount of the receivables in a trust is reduced by payment or repurchase, the cost of administering the trust generally increases, making the servicing of the trust prohibitively expensive at some point. Consequently, the pooling and servicing agreement generally provides that the servicer may purchase the receivables included in the trust when the aggregate unpaid balance payable on the receivables is reduced to a specified percentage (usually 5 or 10 percent) of the aggregate unpaid initial balance.

The purchase price of a receivable is specified in the pooling and servicing agreement and will be at least equal to the unpaid principal balance on the receivable plus accrued interest, less any unreimbursed advances of principal made by the servicer.

Certificate Ratings

18. The certificates will have received one of the three highest ratings available from either S&P's, Moody's, D&P or Fitch. Insurance or other credit support (such as surety bonds, letters of credit, reserve funds or guarantees) will be obtained by the trust sponsor to the extent necessary for the certificates to attain the desired rating. The amount of the credit support is set by the rating agencies at a level that is a multiple of the very worst historical credit loss experience for receivables of the type included in the trust.

Provision of Credit Support

19. In some cases, the master servicer, or an affiliate of the master servicer, may provide credit support to the trust (*i.e.*, act as an insurer). In these cases, the master servicer, in its capacity as servicer, will first advance funds in a timely manner and to the full extent required by the pooling and servicing agreement if it determines that such advances will be recoverable out of late payments by the obligors or, in the case of a trust which issues subordinated certificates, from amounts otherwise distributable to holders of subordinated certificates. Otherwise, the master servicer, as the provider of credit support, will be called upon (by itself as servicer acting on behalf of the trustee, or directly by the trustee) to provide funds to cover such payments to the full extent of its obligations as insurer. In some transactions, however, the master servicer may not be obligated to advance funds, but instead would be called upon to provide funds to cover defaulted payments to the full extent of its obligations as insurer. Moreover, a master servicer typically can recover advances either from the provider of credit support or from future payments on affected assets.

If the master servicer fails to advance funds and fails to call upon the credit support mechanism to provide funds to cover delinquent payments, the trustee may exercise its rights as beneficiary of the credit support to obtain funds under the credit support mechanism. Therefore, in all cases, the independent trustee will be ultimately responsible for deciding when to exercise its rights as beneficiary of that credit support.

When a master servicer advances funds, the amount so advanced is recoverable by the servicer out of future payments on receivables held by the trust to the extent not covered by credit support. However, where the master servicer provides credit support to the trust, there are protections in place to guard against a delay in calling upon the credit support to take advantage of the fact that the dollar limit on the credit support declines as payments on receivables are passed through to investors. These safeguards include the following:

(a) There is often a disincentive to postponing credit losses because the sooner repossession or foreclosure activities are commenced, the more value that can be realized on the security for the obligation;

(b) The master servicer has servicing guidelines which include a general policy as to the allowable delinquency period after which an obligation ordinarily will be deemed uncollectible. The pooling and servicing agreement will require the master servicer to follow its normal servicing guidelines and will set forth the master servicer's general policy as to the period of time after which delinquent obligations ordinarily will be considered uncollectible;

(c) As frequently as payments are due on the receivables included in the trust (monthly, quarterly or semi-annually, as set forth in the pooling and servicing agreement), the master servicer is required to report to the independent trustee the amount of all past-due payments and the amount of all servicer advances, along with other current information as to collections on the receivables and draws upon the credit support. Further, the master servicer is required to deliver to the trustee annually a certificate of an executive officer of the master servicer stating that a review of the servicing activities has been made under such officer's supervision, and either stating that the master servicer has fulfilled all of its obligations under the pooling and

servicing agreement or, if the master servicer has defaulted under any of its obligations, specifying any such default. The master servicer's reports are reviewed at least annually by independent accountants to ensure that the master servicer is following its normal servicing standards and that the master servicer's reports conform to the master servicer's internal accounting records. The results of the independent accountants' review are delivered to the trustee;

(d) The credit support has a "floor" dollar amount that protects investors against the possibility that a large number of credit losses might occur towards the end of the life of the trust, whether due to servicer advances or any other cause. Once the floor amount has been reached, the servicer lacks an incentive to postpone the recognition of credit losses because the credit support amount becomes a fixed dollar amount, subject to reduction only for actual draws. From the time that the floor amount is effective until the end of the life of the trust, there are no proportionate reductions in the credit support amount caused by reductions in the pool principal balance. Indeed, since the floor is a fixed dollar amount, the amount of credit support ordinarily increases as a percentage of the pool principal balance during the period that the floor is in effect.

This last safeguard would apply only where the master servicer and the insurer are affiliated or are the same entity. In the case of a trust that issues subordinated certificates which may be held by the servicer or its affiliates, the representations in paragraph (d) above would not apply insofar as the definition of insurer contained in section III.I. of the operative language of the proposed exemption states that a person is not an insurer solely because it holds subordinated certificates.

Disclosure

20. In connection with the original issuance of certificates, the prospectus or private offering memorandum will be furnished to investing plans. The prospectus or private offering memorandum will contain information material to a fiduciary's decision to invest in the certificates, including:

(a) Information concerning the certificates, including payment terms, tax consequences of owning and selling certificates, the legal investment status and rating of the certificates, and the material risk factors with respect to an investment in the certificates;

(b) Information about the underlying receivables, including the types of receivables, the diversification of the receivables, their payment terms, and legal aspects of the receivables;

(c) Information about the servicing of the receivables, including the identity of the master servicer and servicing compensation;

(d) Information about the sponsor of the trust;

(e) The material terms of the pooling and servicing agreement; and

(f) Information about the scope and nature of the secondary market, if any, for the certificates.

21. Certificate holders will be provided with information concerning the amount of principal and interest to be paid on certificates at least as frequently as distributions are made to certificate holders. Certificate holders will also be provided with periodic information statements setting forth material information concerning the underlying assets, including, where applicable, information as to the amount and number of delinquent and defaulted loans or receivables.

22. In the case of a trust that offers and sells certificates in a registered public offering, the trustee, the servicer or the sponsor will file such periodic reports as may be required to be filed under the Securities Exchange Act of 1934. Although some trusts that offer certificates in a public offering will file quarterly reports on Form 10–Q and Annual Reports on Form 10–K, many trusts obtain, by application to the Securities and Exchange Commission, a complete exemption from the requirement to file quarterly reports on Form 10–Q and a modification of the disclosure requirements for annual reports on Form 10–K. If such an exemption is obtained, these trusts normally would continue to have the obligation to file current reports on Form 8–K to report material developments concerning the trust and the certificates. while the Securities and Exchange Commission's interpretation of the periodic reporting requirements is subject to change, periodic reports concerning a trust will be filed to the extent required under the Securities Exchange Act of 1934.

23. At or about the time distributions are made to certificate holders, a report on operation of the trust, including information on any delinquencies or advances by servicers, will be made to the trustee and upon request, any rating agencies that rated the certificates. These reports will be available to investors and the availability of the reports will be made known to potential investors. In addition, promptly after each distribution date, certificate holders will receive a statement summarizing information regarding the trust and its assets. Such statement will include information regarding payments and prepayments, delinquencies and foreclosures.

Secondary Market Transactions

24. Although MNB has not historically made a market in mortgage-backed and asset-backed securities of the type described in the exemption request, MNB anticipates that it will make such a market in the future, subject to market conditions and applicable law.

Prospective Relief

25. The relief requested by MNB is prospective only. Accordingly, this proposed exemption, if granted, will be effective for transactions occurring after the date of the granting of the exemption.

Summary

26. In summary, the applicant represents that the transactions for which exemptive relief are requested satisfy the statutory criteria of section 408(a) of the Act due to the following:

(a) The trusts contain "fixed pools" of assets. There is little discretion on the part of the trust sponsor to substitute receivables contained in the trust once the trust has been formed;

(b) Certificates in which plans invest will have been rated in one of the three highest rating categories by S&P's, Moody's, D&P or Fitch. Credit support will be obtained to the extent necessary to attain the desired rating;

(c) All transactions for which MNB seeks exemptive relief will be governed by the pooling and servicing agreement, which is made available to plan fiduciaries for their review prior to the plan's investment in certificates;

(d) Exemptive relief from sections 406(b) and 407 for sales to plans is substantially limited; and

(e) MNB anticipates that it will make a secondary market in certificates.

Discussion of Proposed Exemption

I. Comparison of Proposed Exemption With Class Exemption PTE 83–1

The exemptive relief proposed herein is similar to that provided in PTE 81–7 (46 FR 7520, January 23, 1981), Class Exemption for Certain Transactions Involving Mortgage Pool Investment Trusts, amended and restated as PTE 83–1 (48 FR 895, January 7, 1983).

PTE 83–1 applies to mortgage pool investment trusts consisting of interest-bearing obligations secured by first or second mortgages or deeds of trust on single-family residential property. The exemption provides relief from sections 406(a) and 407 for the sale, exchange or

transfer in the initial issuance of mortgage pool certificates between the trust sponsor and a plan, when the sponsor, trustee or insurer of the trust is a party-in-interest with respect to the plan, and the continued holding of such certificates, provided that the conditions set forth in the exemption are met. PTE 83–1 also provides exemptive relief from section 406 (b)(1) and (b)(2) of the Act for the above-described transactions when the sponsor, trustee or insurer of the trust is a fiduciary with respect to the plan assets invested in such certificates, provided that additional conditions set forth in the exemption are met. In particular, section 406(b) relief is conditioned upon the approval of the transaction by an independent fiduciary. Moreover, the total value of certificates purchased by a plan must not exceed 25 percent of the amount of the issue, and at least 50 percent of the aggregate amount of the issue must be acquired by persons independent of the trust sponsor, trustee or insurer. Finally, PTE 83–1 provides conditional exemptive relief from section 406 (a) and (b) of the Act for transactions in connection with the servicing and operation of the mortgage trust.

Under PTE 83–1, exemptive relief for the above transactions is conditioned upon the sponsor and the trustee of the mortgage trust maintaining a system for insuring or otherwise protecting the pooled mortgage loans and the property securing such loans, and for indemnifying certificateholders against reductions in pass-through payments due to defaults in loan payments or property damage. This system must provide such protection and indemnification up to an amount not less than the greater of one percent of the aggregate principal balance of all trust mortgages or the principal balance of the largest mortgage.

The exemptive relief proposed herein differs from that provided by PTE 83–1 in the following major respects: (1) The proposed exemption provides individual exemptive relief rather than class relief; (2) The proposed exemption covers transactions involving trusts containing a broader range of assets than single-family residential mortgages; (3) Instead of requiring a system for insuring the pooled receivables, the proposed exemption conditions relief upon the certificates having received one of the three highest ratings available from S&P's, Moody's, D&P or Fitch (insurance or other credit support would be obtained only to the extent necessary for the certificates to attain the desired rating); and (4) The proposed exemption provides more limited section 406(b) and section 407 relief for sales transactions.

II. Ratings of Certificates

After consideration of the representations of the applicant and information provided by S&P's, Moody's, D&P and Fitch, the Department has decided to condition exemptive relief upon the certificates having attained a rating in one of the three highest generic rating categories from S&P's, Moody's, D&P or Fitch. The Department believes that the rating condition will permit the applicant flexibility in structuring trusts containing a variety of mortgages and other receivables while ensuring that the interests of plans investing in certificates are protected. The Department also believes that the ratings are indicative of the relative safety of investments in trusts containing secured receivables. The Department is conditioning the proposed exemptive relief upon each particular type of asset-backed security having been rated in one of the three highest rating categories for at least one year and having been sold to investors other than plans for at least one year.[15]

III. Limited Section 406(b) and Section 407(a) Relief for Sales

The applicant represents that in some cases a trust sponsor, trustee, servicer, insurer, an obligor with respect to receivables contained in a trust, or an underwriter of certificates may be a pre-existing party in interest with respect to an investing plan.[16] In these cases, a direct or indirect sale of certificates by that party in interest to the plan would be a prohibited sale or exchange or property under section 406(a)(1)(A) of the Act.[17] Likewise, issues are raised under section 406(a)(1)(D) of the Act where a plan fiduciary causes a plan to purchase certificates where trust funds will be used to benefit a party in interest.

Additionally, the applicant represents that a trust sponsor, servicer, trustee, insurer, an obligor with respect to receivables contained in a trust, or an underwriter of certificates representing an interest in a trust may be a fiduciary with respect to an investing plan. The applicant represents that the exercise of fiduciary authority by any of these parties to cause the plan to invest in certificates representing an interest in the trust would violate section 406(b)(1), and in some cases section 406(b)(2), of the Act.

Moreover, the applicant represents that to the extent there is a plan asset "look through" to the underlying assets of a trust, the investment in certificates by a plan covering employees of an obligor with respect to receivables contained in a trust may be prohibited by sections 406(a) and 407(a) of the Act.

After consideration of the issues involved, the Department has determined to provide the limited sections 406(b) and 407(a) relief as specified in the proposed exemption.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Ameritrust Company National Association (Ameritrust), Located in Cleveland, Ohio

[Application Nos. D–8118 and D–8119]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted: (1) The restrictions of sections 406(b)(2) and 406(b)(3) of the Act shall not apply to the proposed receipt of fees by Ameritrust, acting as agent for other banks affiliated with Ameritrust (the Affiliated Banks), from the Financial Reserves Fund (the Fund), an open-ended investment company for which Ameritrust performs services, in connection with the investment of funds

[15] In referring to different "types" of asset-backed securities, the Department means certificates representing interests in trusts containing different "types" of receivables, such as single family residential mortgages, multi-family residential mortgages, commercial mortgages, home equity loans, auto loan receivables, installment obligations for consumer durables secured by purchase money security interests, etc. The Department intends this condition to require that certificates in which a plan invests are of the type that have been rated (in one of the three highest generic rating categories by S&P's, Moody's, D&P and Fitch) and purchased by investors other than plans for at least one year prior to the plan's investment pursuant to the proposed exemption. In this regard, the Department does not intend to require that the particular assets contained in a trust must have been "seasoned" (e.g., originated at least one year prior to the plan's investment in the trust).

[16] In this regard, we note that the exemptive relief proposed herein is limited to certificates with respect to which MNB or any of its affiliates is either (a) the sole underwriter or manager or comanager of the underwriting syndicate, or (b) a selling or placement agent.

[17] The applicant represents that where a trust sponsor is an affiliate of MNB, sales to plans by the sponsor may be exempt under PTE 75–1, part II (relating to purchases and sales of securities by broker-dealers and their affiliates), if MNB is not a fiduciary with respect to plan assets to be invested in certificates.

through a daily automated sweep arrangement with various voluntary employee benefit association trusts (the VEBAs), exempt from taxation under section 501(c)(9) of the Code; [18] and (2) the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(F) of the Code shall not apply to the proposed receipt of fees by Ameritrust, acting as agent for the Affiliated Banks, from the Fund in connection with the investment of funds through a daily automated sweep arrangement with certain individual retirement accounts (the IRAs), as defined in section 408(a) of the Code.[19] Ameritrust acts as an agent for the Affiliated Banks which serve as investment managers, trustees, or custodians for the VEBAs or as discretionary or directed trustees for the IRAs.[20]

Supplemental Information

On August 12, 1987, and July 15, 1988, the Department granted two prohibited transactions exemptions (PTE 87–71 and PTE 88–60),[21] which permitted Ameritrust to receive fees from the Fund in connection with the investment of assets through an automated daily sweep arrangement, respectively, with the VEBAs and the IRAs for which Ameritrust acts as a directed trustee, custodian, and/or investment manager; provided that certain conditions were met. However, it is represented that at the time of those grants, Ameritrust did not request relief where Ameritrust acts as agent for the Affiliated Banks which serve as directed trustees, custodians, and/or investment managers of VEBAs and IRAs, because Ameritrust had not entered into such affiliation until 1986 or later. Ameritrust herein requests that an exemption be granted to include VEBAs and IRAs of Affiliated Banks for which Ameritrust acts as an agent. It should be noted that in November 1988, Ameritrust did file a request for exemptive relief (Application Nos. D–7833 and L–7834) with respect to the receipt of fees by Ameritrust from the Fund through an automated daily sweep arrangement in connection with the investment of assets of certain managed and directed Keoghs and other directed employee benefit trusts for which: (1) Ameritrust acts as trustee, custodian, and/or investment manager, or (2) Ameritrust acts as agent for Affiliated Banks which serve as trustees, custodians, and/or investment managers.[22] A proposed exemption was published by the Department on August 30, 1989, (54 FR 35946), and was granted on November 3, 1989 (54 FR 46485), as PTE 89–97.

Summary of Facts and Representations

1. Ameritrust, a subsidiary of Ameritrust Corporation, is a national banking association, located at 900 Euclid Avenue, Cleveland, Ohio, and is authorized to do business under the banking laws of the United States. Ameritrust provides a full range of banking and trust services. It is represented that Ameritrust performs custodial, recordkeeping, and advisory services as agent for the Affiliated Banks which act as trustees, custodians, and/or investment managers for eight (8) VEBAs and as trustees for 150 IRAs.

Ameritrust and the Affiliated Banks are parties in interest under section 3(14) of the Act with respect to the VEBAs and are disqualified persons under section 4975(e)(2) of the Code with respect to the IRAs, because Ameritrust and the Affiliated Banks provide services to the VEBAs and the IRAs. The Affiliated Banks are also fiduciaries, as defined in section 3(21) of the Act and section 4975(e)(3) of the Code, respectively, with respect to the assets in any of the VEBAs or the IRAs where the Affiliated Banks have investment discretion.

2. The Affiliated Banks act as custodians or directed trustees for some of the VEBAs. These directed VEBAs have allocated responsibility for investment decisions to a fiduciary or investment manager other than Ameritrust or the Affiliated Banks. It is represented that under these circumstances, neither Ameritrust nor the Affiliated Banks have any discretionary control or responsibility with respect to the investment of any of the assets of those VEBAs, including cash in such VEBAs' accounts, nor do Ameritrust or the Affiliated Banks render any investment advice with respect to the assets in those VEBAs' accounts. As to such VEBAs, the Affiliated Banks charge custodial service fees based on the value of the VEBAs' assets and on the value of accounting services they provide to such VEBAs. The Affiliated Banks currently charge for custodial services provided to directed VEBAs a fee based on .3 percent per $1,000 on the first $200,000 of the market value of the assets held, with the rate decreasing on the fee schedule to .1 percent per $1,000 on balances over $5 million.

The Affiliated Banks also exercise investment discretion for VEBAs other than those for which the Affiliated Banks act as custodians or directed trustees. Where the Affiliated Banks have investment discretion with respect to the assets in such VEBAs, the Affiliated Banks also have investment discretion to invest cash accumulating in these VEBAs on a temporary basis. For these VEBAs, the Affiliated Banks charge fees for investment services. Managed VEBAs pay the Affiliated Banks a fee based on .42 percent per $1,000 on the first $1 million of the market value of assets held with the rate decreasing on the fee schedule to .0875 percent per $1,000 on balances over $50 million. It is represented that the fees charged by the Affiliated Banks for managed accounts include the above described custodial fees.

3. The individuals who establish IRAs have the right to direct the investment of the assets held therein, including the investment in the Fund. With respect to these IRAs, Ameritrust or the Affiliated Banks have no discretionary control or responsibility with respect to the investment of the assets of such IRAs, nor does Ameritrust or the Affiliated Banks render any investment advice with respect to the assets in those IRAs. With respect to these directed IRAs, the Affiliated Banks charge the IRAs a custodial fee of .3% per $1,000 on the first $200,000 of the market value of the IRAs' funds held, with the rate decreasing to .1% per $1,000 for balances over $5 million.

However, it is represented that account holders of the IRAs may waive the right to direct the investment of assets in their IRAs. In which case, it is represented that the Affiliated Banks

[18] Because the VEBAs are not qualified under section 401 of the Code, there is no jurisdiction under title II of the Act pursuant to section 4975 of the Code. However, there is jurisdiction under title I of the Act pursuant to section 3(1) of the Act.

[19] Because the IRAs meet the conditions described in 29 CFR 2510.3–2(d), there is no jurisdiction under title I of the Act. However, there is jurisdiction under title II of the Act pursuant to section 4975 of the Code.

[20] The applicant represents that the Affiliated Banks comply with the definition of "affiliated group" set forth in section 1504 of the Code. This definition generally provides that an "affiliated group" is one or more chains of includible corporations connected through stock ownership with a common parent corporation which is an includible corporation but only if: (1) 80 percent of the voting power and total value of the stock in at least one of the other includible corporations is owned by the common parent, and (2) 80 percent of the voting power and the total value of stock in each of the includible corporations (except the common parent) is owned directly by one or more of the other includible corporations.

[21] AmeriTrust Company, N.A. (PTE 87–71), granted; 52 FR 29903 (August 12, 1987), proposed; 52 FR 21390 (June 5, 1987), Application No. D–6355; and AmeriTrust Company National Association (PTE 88–60), granted; 53 FR 26908 (July 15, 1988), proposed; 53 FR 18920 (May 25, 1988); Application No. D–6061.

[22] The Department herein is providing no exemptive relief for any transaction covered by sections 408(b)(2) and 29 CFR 2550.408b–2 of the regulations.

charge account holders fees for investment management services rendered by the Affiliated Banks to such IRAs. These fees charged to the IRAs by the Affiliated Banks are currently based on .85% per $1,000 of the market value on the first $200,000 with the rate decreasing on the fee schedule to .475% per $1,000 for balances over $1 million. This schedule includes a custodial fee which is the same as the rate described above for directed IRAs.

4. The Fund is registered under the Investment Company Act of 1940, and is represented to be one of the largest private investment advisory organizations in the United States. The Fund is established as a Massachusetts business trust, and is designed to meet short-term investment requirements by providing for the investment of cash in a professionally managed portfolio of domestic money market instruments. Such short-term investments include certificates of deposit, banker's commercial paper, obligations issued by the government of the United States or any agency or instrumentality thereof, short-term (one-year or less) corporate obligations, and qualified repurchase agreements.

5. Fidelity Management and Research Company (FMR), located at 82 Devonshire Street, Boston, Massachusetts, is the Fund's investment adviser and manager. Shares of the Fund are distributed by Fidelity Distribution Corporation (FDC), a subsidiary of FMR which is registered as a broker-dealer under the Securities Exchange Act of 1934. The applicant represents that neither FMR nor FDC is a fiduciary, as defined in section 3(21) of the Act, or a party in interest, as defined in section 3(14) of the Act with respect to any of the affected VEBAs, nor is FMR or FDC a disqualified person, as defined in section 4975(e) of the Code with respect to any of the affected IRAs. There is no ownership, connection, or affiliation, direct or indirect, between Ameritrust, any Affiliated Banks, and FMR, or FDC.

6. Ameritrust, however, is the administrator for the Fund and performs services for the Fund as custodian of Fund assets. Ameritrust acts also as the servicing agent with respect to transfers from the Fund and distribution of dividends to shareholders. For these services which it renders to the Fund, Ameritrust receives a monthly fee at an annual rate of .25% of the average daily net assets of the Fund. Ameritrust represents that it receives no other consideration or benefits from the Fund.

7. The purchasers of shares in the Fund would not be restricted solely to the VEBAs and the IRAs which are the subject of this proposed exemption. Prospective purchasers receive a prospectus describing the Fund, the services provided by Ameritrust, and the fees paid to Ameritrust. It is represented that shares of the Fund may be purchased on a daily basis. A purchaser does not pay any sales charge to the Fund, to Ameritrust, or to the Affiliated Banks upon purchase of Fund shares.

8. The applicant represents that the VEBAs and the IRAs for which the Affiliated Banks exercise investment discretion cannot participate in Ameritrust's short term collective investment fund for retirement trusts (the STIF). The STIF is part of a collective investment fund established in accordance with 12 CFR 9.18(a)(2). The STIF provides the primary vehicle for temporary investment and for a daily sweep for most employee benefit trusts held by Ameritrust or by the Affiliated Banks acting as full-power trustees and/or investment managers. However, the applicant represents that the VEBAs and the IRAs cannot participate in the STIF, because the STIF can be used only by employee benefit trusts qualified under section 401(a) of the Code.

9. Ameritrust represents that where the VEBAs or IRAs are directed, the decision to invest in the Fund is made solely by the independent fiduciaries of the VEBAs or the account holders of the IRAs. In order to direct such investment, independent fiduciaries for the VEBAs and account holders for the IRAs file with the Affiliated Banks an authorization to permit the daily sweep of cash into the Fund on a continuing basis. However, this authorization may be revoked by the independent fiduciaries of the VEBAs or the account holders of the IRAs at any time.

It is represented that account holders of the IRAs may waive their right to direct the investments in their accounts by submitting to the Affiliated Banks a Waiver of Investment Direction Form. However, in all cases, the Waiver of Investment Direction Form provides that account holders of IRAs nevertheless retain their right to direct the investment of cash as it becomes available to their accounts. Therefore, with respect to the managed IRAs, the account holders of such IRAs will decide whether to invest in the Fund.

With respect to assets in managed VEBAs, it is represented that the decision to invest such assets in the Fund will be made by the Affiliated Banks after full disclosure is made to the independent fiduciaries of the VEBAs of the fees to be paid to Ameritrust for services it provides to the Fund.

Any of the VEBAs and IRAs which participate in the Fund will have cash automatically swept into the Fund, down to a zero balance, on a daily basis, in order to have all of the assets of such VEBAs and IRAs invested at all times. It is represented that neither Ameritrust nor the Affiliated Banks have discretion with respect to the timing within the day of the sweep either into or out of the Fund.

The applicant represents that the steps of the procedure used by the Affiliated Banks to sweep the assets of the VEBAs and IRAs into the Fund are as follows: (1) The net interest income of the Fund is determined and is declared as a dividend early each afternoon; (2) then, the net interest income figure is input into the automated accounting system; (3) thereafter, at the close of business each day immediately following posting, the cash management automated system reviews the accounts of the VEBAs and IRAs, determines whether such accounts have a net negative or positive balance; (4) on that basis the system either sweeps cash from the accounts of such VEBAs or IRAs into or out of the Fund; and (5) on the following morning, the aggregate amount of the sweep on the previous night is reported to the Fund. It is represented that the steps in this procedure are repeated daily.

It is anticipated that shares of the Fund to be held in both the directed and managed VEBAs and IRAs which are the subject of this proposed exemption will comprise approximately 4%–5% of the total assets of the Fund.

Once invested in the Fund, fiduciaries for the VEBAs or the account holders for the IRAs may redeem shares in the Fund on a daily basis and will receive the proceeds from the sale of their shares on the same day as requested at fixed net asset value per unit of $1.00. It is represented that since its inception in 1982, the Fund has always maintained a $1.00 per share price. It is represented that shareholders of the Fund do not pay any redemption fee to the Fund, Ameritrust, or the Affiliated Banks upon redemption of Fund shares.

In order to withdraw from the Fund, fiduciaries for the VEBAs or account holders for the IRAs must notify the Affiliated Banks which hold the assets of the VEBAs and IRAs of the intention to withdraw from the Fund's automated cash management sweep. Notification may be made orally, by wire, or in writing. It is represented that there is no penalty for withdrawing from the Fund and that such withdrawals would be effective immediately upon receipt of the notice to withdraw.

10. It is represented that the Affiliated Banks will continue to receive: (a) The custodial fees from directed VEBAs and IRAs, and (b) that portion of the management fees which relates to custodial services provided to the managed VEBAs and IRAs by the Affiliated Banks. However, in the situation where assets of the VEBAs and IRAs are swept into the Fund and the Affiliated Banks exercise investment discretion over such assets and charge the VEBAs and the IRAs a management fee, the Affiliated Banks will subtract from such management fees that portion of the fee which Ameritrust receives from the Fund which represents the *pro rata* interest in the Fund of the particular VEBAs or IRAs. It is represented that in no case will the management fee that the Affiliated Banks receive from the VEBAs or IRAs be less than the amount of the fee Ameritrust receives from the Fund.

Any future increases in fees paid to Ameritrust by the Fund will be disclosed in a new prospectus issued by the Fund and supplied to all Fund participants, including the VEBAs and IRAs, prior to any additional sales and purchases of shares in the Fund by such VEBAs or IRAs. Affiliated Banks will also advise the participants in the Fund that withdrawals from the Fund could be made at any time without penalty prior to the increase in fees. In addition, if Ameritrust's fee from the Fund were increased, the Affiliated Banks have represented that they will reduce by an additional corresponding amount the management fee charged to the VEBAs or the IRAs for which the Affiliated Banks provided investment management services.

11. In summary, the applicant represents that the proposed transactions satisfy the criteria of section 408(a) of the Act and section 4975(c)(2) of the Code because: (a) Investment of the assets of the VEBAs and the IRAs in the Fund will enable those assets to be fully invested on a daily basis in a diversified money market fund which should furnish a steady source of income for the VEBAs and the IRAs; (b) the services provided by Ameritrust and the fees paid by the Fund (or any increase in fees paid) to Ameritrust will be disclosed in the Fund prospectus and will be sent to all investors, including the fiduciaries for the VEBAs and the account holders of the IRAs; (c) the decision to invest the assets of the directed VEBAs in the Fund will be made by independent fiduciaries unrelated to Ameritrust or the Affiliated Banks; (d) the decision to invest the assets of the managed VEBAs in the Fund will be made by the Affiliated Banks after full disclosure is made to the independent fiduciaries of the VEBAs of the fees to be paid to Ameritrust for services it provided to the Fund; (e) the decision to invest the assets of either the directed or the managed IRAs in the Fund will be made by the account holders of such IRAs; and (f) for managed accounts of either the VEBAs or the IRAs, the Affiliated Banks will reduce the management fees paid by the VEBAs and the IRAs by an amount equal to the fee (or any increase in the fee) which Ameritrust receives as service provider to the Fund.

For further information: Angelena C. Le Blanc of the Department, telephone (202) 523–8883. (This is not a toll-free number.)

Crestar Real Estate Investment Fund for Employee Benefit Trusts (the Fund) Located in Richmond, Virginia

[Application No. D–8284]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4081(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to an interest-free loan made to the Fund on December 28, 1989, by Crestar Bank (Crestar), the fiduciary of the Fund and a party in interest with respect to plans participating in the Fund.

Effective Date: If the proposed exemption is granted, the exemption will be effective December 28, 1989.

Summary of Facts and Representations

1. Crestar, the sponsor of the Fund, is a corporation organized under the laws of the Commonwealth of Virginia and regulated by the Commissioner of Financial Institutions (State Corporation Commission of Virginia) and the Federal Reserve System, of which it is a member bank. Crestar provides a wide range of banking and other financial services throughout Virginia. It is a wholly owned subsidiary of Crestar Financial Corporation, a bank holding company located in Richmond and organized under the laws of the Commonwealth of Virginia and the Bank Holding Company Act of 1956. Other banking affiliates of Crestar include two subsidiaries of Crestar Financial Corporation: Crestar Bank/Maryland, a Maryland banking corporation, and Crestar Bank N.A., a national banking association with offices in the District of Columbia.

2. The Fund was a group trust organized by Crestar for collective investments in real estate by employee pension benefit plans qualified under the Code (Employee Plans) with Crestar as the discretionary trustee for the Fund. Since its inception in 1982, the assets of the Fund were invested primarily in income-producing real estate, with a limited portion of the assets invested in cash and short-term investments to provide liquidity for distributions. The Fund provided for additions and withdrawals at every quarter of the calendar year, thereby requiring the quarterly valuation of the assets of the Fund. This valuation was accomplished by relying upon staggered, annual appraisals of each parcel of real estate, performed by a number of different, independent appraisers. The appraisals were reviewed and values adjusted each quarter by Crestar with income and expenses computed in order to determine values of units in the Fund being held and offered to different Employee Plans. As of September 30, 1989, there were 10,870 units outstanding with each unit having a value of $1,978.74.

3. In recent years, the Fund encountered adversities which have resulted in the gradual decline of the size of the Fund until its total assets were valued at approximately $24,000,000 at the beginning of 1989. After the quarterly valuation date of June 30, 1989, admissions to the Fund totalled $327,546 and withdrawals reached $1,465,766, resulting in a net outflow of $1,138,220. This situation seriously depleted the cash and cash-equivalent reserves held by the Fund. In mid-August of 1989, the Fund received notice from several Employee Plans of their intention to withdraw all or a part of their respective investments in the Fund on September 30 or December 31, 1989. Confronted with a deteriorating situation, Crestar considered various alternatives for dealing with the problems of the Fund. The alternatives included borrowing funds to meet liquidity demands, selling certain real estate holdings, and, as permitted by the terms of the Fund, delaying for a period of up to one year requests for withdrawal from the Fund. However, after careful deliberation, Crestar concluded that the best interests of the Employee Plans and their participants and beneficiaries would be served by terminating the Fund. Under the terms of the Fund, Crestar was given the discretionary authority to terminate the

Fund and liquidate its assets. On September 18, 1989, Crestar exercised that authority by terminating the Fund and directing that the assets be liquidated for distribution on a *pro rata* basis to the respective Employee Plans. In accordance with the Fund documents, notification of termination was published and distributed prior to September 30, 1989, to the 130 participating Employee Plans with an estimated 36,000 participants and beneficiaries.

4. Upon making its decision to terminate the Fund, Crestar proceeded in establishing sale prices for all its real estate holdings, consisting of seven shopping centers located in several states in the Southeast and selecting needed real estate brokers; consulting the local property managers; and making internal valuations of each parcel of real estate it held. As of September 30, 1989, it was calculated that the real estate investments totalled $20,295,859.18 (net of indebtedness secured by real estate), cash and securities totalled $1,286,674.36, and other assets amounted to $45,767.95. The liquid assets of the Fund were found to be inadequate to cover the anticipated withdrawals of approximately $4,000,000 for the periods ending September 30 and December 31, 1989.

As of December 21, 1989, four of the parcels of real estate were listed for sale with local brokers. Two more parcels were to be listed during the first quarter of 1990, and Crestar had received a letter of intent for purchase of one parcel. However, the applicant represents that depending upon local real estate conditions, it may take months before sales can be consummated in a manner that derives maximum benefit for the Fund and its participating Employee Plans. Crestar was apprehensive of, and desired to avoid, the inconvenience and administrative burden that a lengthy liquidation process would entail for participating Employee Plans, especially those that were themselves terminating or transferring assets to a new trustee or were self-directed plans.

5. On November 13, 1989, one of the participating Employee Plans filed a civil action in federal district court alleging, among other things, that Crestar breached its fiduciary duties under the Act by failing to distribute cash pursuant to a withdrawal request made prior to the quarter ending September 30, 1989.[23] As part of the resulting settlement agreement, and to permit a prompt cash distribution to the Employee Plans participating in the Fund, Crestar advanced to the Fund a loan (the Loan) in the amount of $19,096,781, on December 28, 1989. The Loan requires no collateral and no payment of interest charges, and permits each participating Employee Plan to withdraw on a *pro rata* basis a cash amount from the Fund equal to the adjusted value as of September 30, 1989, of each Employee Plan's investment in the Fund.[24] The Loan was one of several transactions considered independently of the litigation by Crestar as a method for protecting the participating Employee Funds from the uncertainties of the real estate market during a prolonged liquidation of the Fund's assets.

The terms of the Loan provide that the only funds to be used for repayment to Crestar will be the revenue, less expenses, generated by the Fund after September 30, 1989, from rentals and sales of the real estate, plus income from other sources. After all the real estate has been sold and liabilities have been paid, including repayment of the Loan from Crestar, all remaining amounts, if any, will be distributed on a *pro rata* basis to the Employee Plans that held units in the Fund as of September 30, 1989. If the revenue is not sufficient to repay Crestar for the Loan to the Plan, Crestar has no recourse against the Employee Plans or their participants and beneficiaries for the unpaid amount. In addition, Crestar will receive no fee or commission as agent or broker in the sale of the assets of the Fund and has reduced its fees for managing the assets of the Fund from 1 percent to .75 percent.

6. In summary, the applicants represent that the transaction satisfies the criteria of section 408(a) of the Act for the following reasons: (a) All aspects of the transaction are readily subject to examination and/or regulation by the participating Employee Plans, bank regulators, and the Department; (b) the transaction provided immediate liquidity in an inherently illiquid investment situation and allowed for the prompt reinvestment of the loan proceeds by participating Employee Plans; (c) the Fund can continue to operate prudently while liquidating its assets in an orderly fashion, thereby preserving the greatest possible values for participating Employee Plans; (d) net proceeds in the liquidation process, which exceed the amount loaned by Crestar, will be distributed proportionally to the Employee Plans; (e) Crestar has assumed the risk that the proceeds from the liquidation of the assets of the Fund will be sufficient to repay the Loan, with Crestar having no recourse against the Fund or its participating Employee Plans; and (f) each parcel of real estate held by the Fund has been appraised by an independent appraiser within one year of September 30, 1989, and actual sales of the real estate will be made directly by Crestar or by qualified, independent brokers.

For further information contact: Mr. C.E. Beaver of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or

[23] *U.S. News & World Report/The Atlantic Monthly 401(k)/Profit Sharing Plan et al.* v. *Crestar Bank*, No. 89–1563 (E.D. Va. filed Nov. 13, 1989). In this regard, the Department is expressing no views with respect to the actions that resulted in the litigation.

[24] The applicant represents that Prohibited Transaction Class Exemption 80–26 (PTE 80–26, 45 FR 28545, April 29, 1980) cannot be relied upon with respect to the Loan. PTE 80–26, in relevant part, provides exemptive relief where the proceeds of a loan are used only for payment of ordinary operating expenses of a plan, including payment of benefits and periodic premiums under an insurance or annuity contract; or for a period of no more than three days for a purpose incidental to the ordinary operation of the plan.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 1st day of May 1990.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 90–10409 Filed 5–4–90; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Agency Information Collection Activities Under OMB Review

AGENCY: National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) has sent to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Comments on this information collection must be submitted on or before June 6, 1990.

ADDRESSES: Send comments to Ms. Susan Daisey, Assistant Director, Grants Office, National Endowment for the Humanities, room 310, 1100 Pennsylvania Avenue NW., Washington, DC 20506 (202–786–0494), or Mr. Joe Lackey, Office of Management and Budget, New Executive Office Building, 726 Jackson Place NW., room 3002, Washington, DC 20503 (202–395–7316).

FOR FURTHER INFORMATION CONTACT: Ms. Susan Daisey, Assistant Director, Grants Office, National Endowment for the Humanities, room 310, 1100 Pennsylvania Avenue NW., Washington, DC 20506 (202) 786–0494, from whom copies of forms and supporting documents are available.

SUPPLEMENTARY INFORMATION: All of the entries are grouped into new forms, revisions, or extensions. Each entry is issued by NEH and contains the following information: (1) The title of the form; (2) the agency form number, if applicable; (3) how often the form must be filled out; (4) who will be required or asked to report; (5) what the form will be used for; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to fill out the form. None of these entries are subject to 44 U.S.C. 3504(h).

Category: Revisions

Title: Faculty Graduate Study Program for Historically Black Colleges and Universities.
Form Number: 3136–0060.
Frequency of Collection: Annually.
Respondents: Individuals and historically black colleges and universities.
Use: Application, evaluation, and award process for NEH Graduate Study Program for faculty at historically black colleges and universities.
Estimated number of respondents: 190.
Frequency of Response: Once.
Estimated hours for respondents to provide information: 1.42 per respondent.
Estimated Total Annual Reporting and Recording Burden: 275 hours.

Thomas S. Kingston,

Assistant Chairman for Operations.

[FR Doc. 90–10538 Filed 5–4–90; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meeting of the Dance Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Dance Advisory Panel (Choreographers' Fellowships Prescreening Section) to the National Council on the Arts will be held on June 7–8, 1990, from 9:00 a.m.—8:00 p.m. in Room 714 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), and (6) and (9)(B) of section 552b of title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Dated: May 1, 1990.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 90–10508 Filed 5–4–90; 8:45 am]

BILLING CODE 7537–01–M

Meeting of the Dance Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Dance Advisory Panel (Choreographers' Fellowships Section) to the National Council on the Arts will be held on June 11–12, 1990, from 9:00 a.m.–8:30 p.m., June 13 from 9:00 a.m.–9:00 p.m., June 14 from 9:00 a.m.–8:30 p.m., and June 15 from 9:00 a.m.–6:30 p.m. in room 714 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on June 15 from 4:30 p.m.–6:30 p.m. The topic will be policy issues.

The remaining portions of this meeting on June 11–12, 1990, from 9:00 a.m.–8:30 p.m., June 13 from 9:00 a.m.–9:00 p.m., June 14 from 9:00 a.m.–8:30 p.m., and June 15 from 9:00 a.m.–4:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Dated: May 1, 1990.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 90–10509 Filed 5–4–90; 8:45 am]

BILLING CODE 7537–01–M

Meeting of the Office of Public Partnership Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Office of Public Partnership Advisory Panel (States Program Overview & Challenge III Section) to the National Council on the Arts will be held on June 4, 1990, from 9:00 a.m.–5:30 p.m. and on June 5 from 9:00 a.m.–4:30 p.m. in room M14 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

Portions of this meeting will be open to the public on June 4 from 2:00 p.m.–5:30 p.m. and on June 5 from 9:00 a.m.–4:30 p.m. The topics will be opening remarks and approval of minutes, discussion of deferred applications, standards for state arts agency planning and grant decision-making, rural special project application review, and possible expanded rural/multi-cultural special project initiative.

The remaining portion of this meeting on June 4 from 9:00 a.m.–2:00 p.m. is for the purpose of Panel review, discussion, evaluation, and recommendation on Challenge III applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

If you need special accommodations due to a disability, please contract the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Dated: May 1, 1990.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 90–10510 Filed 5–4–90; 8:45 am]

BILLING CODE 7537–01–M

Meeting of the Theatre Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Theater Advisory Panel (Artistic Advancement Section) to the National Council on the Arts will be held on May 31, 1990 from 9:30 a.m.–7:00 p.m. in Room M07 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

Portions of this meeting will be open to the public on May 31, 1990, from 9:30 a.m.–10:00 a.m. and from 6:00 p.m.–7:00 p.m. The topics for discussion will be opening remarks and guidelines and policy issues.

The remaining portion of this meeting on May 31, 1990, from 10:00 a.m.–6:00 p.m. is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Dated: May 1, 1990.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 90–10511 Filed 5–4–90; 8:45 am]

BILLING CODE 7537–01–M

Meeting of the Theatre Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Theater Advisory Panel (Challenge III Section) to the National Council on the Arts will be held on June 1, 1990, from 9:30 a.m.—6:30 p.m. in room M07 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

Portions of this meeting will be open to the public on June 1 from 9:30 a.m.–10:00 a.m. and from 5:30 p.m.– 6:30 p.m. The topics will be opening remarks and guideline and policy issues.

The remaining portion of this meeting on June 1 from 10:00 a.m.–5:30 p.m. is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Dated: May 1, 1990.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 90–10512 Filed 5–4–90; 8:45 am]

BILLING CODE 7537–01–M

Meeting of the Theatre Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Theatre Advisory Panel (National Resources Section) to the National Council on the Arts will be held on June 12, 1990, from 9:30 a.m.–7:00 p.m. in room M07 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

Portions of this meeting will be open to the public on June 12 from 9:30 a.m.–10:00 a.m. and from 6:00 p.m.–7:00 p.m. The topics will be opening remarks and guidelines and policy issues.

The remaining portion of this meeting on June 12 from 10:00 a.m.–6:00 p.m. is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for

financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Dated: May 1, 1990.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 90–10513 Filed 5–4–90; 8:45 am]

BILLING CODE 7537–01–M

Meeting of the Theatre Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Theater Advisory Panel (Overview Section) to the National Council on the Arts will be held on June 13, 1990, from 9:30 a.m.–6:00 p.m. and on June14 from 9:30 a.m.–5:30 p.m. in room M07 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

Portions of this meeting will be open to the public on June 13 from 9:30 a.m.–10:00 a.m. and from 1:30 p.m.–6:00 p.m. and on June 14 from 9:30 a.m.–5:30 p.m. The topics will be opening remarks, policy issues and FY 91 guidelines.

The remaining portion of this meeting on June 13 from 10:00 a.m.–1:30 p.m. is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Dated: May 1, 1990.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 89–10514 Filed 5–4–89; 8:45 am]

BILLING CODE 7537–01–M

Advisory Panel of the Visual Arts

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Visual Arts Advisory Panel (Visual Artists Fellowships/Crafts Section) to the National Council on the Arts will be held on June 11, 1990, from 9:00 a.m.–8:00 p.m., June 12–14 from 9:00 a.m.–6:00 p.m., and June 15 from 9:00 a.m.–4:00 p.m. in room 716 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on June 15 from 2:30 p.m.–4:00 p.m. The topic will be guidelines and policy issues.

The remaining portions of this meeting on June 11, 1990, from 9:00 a.m.–8:00 p.m., June 12–14 from 9:00 a.m.–6:00 p.m., and June 15 from 9:00 a.m.–2:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applicants for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applications. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Dated: May 1, 1990.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 90–10515 Filed 5–4–90; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–440]

The Cleveland Electric Illuminating Co. et al.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–58, issued to the Cleveland Electric Illuminating Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, and Toledo Edison Company (the licensees), for operation of the Perry Nuclear Power Plant, Unit No. 1, located in Lake County, Ohio.

ENVIRONMENTAL ASSESSMENT

Identification of Proposed Action

The proposed amendment would revise the provisions in the Technical Specifications (TS) relating to the Setpoint and Allowable Value for Turbine First Stage Pressure bypass in notes (h) and (b) of Tables 3.3.1–1 and 3.3.4.2–1, respectively, of the TS.

The proposed action is in accordance with the licensees' application for amendment dated May 20, 1988, as supplemented by a letter dated November 27, 1989.

The Need for the Proposed Action

The proposed change to the TS is required in order to establish more accurate setpoints and allowable values based upon startup testing data rather than pre-operational calculations. This would provide for additional margin to protect against inadvertent scrams at low power while still providing for initiation of anticipatory turbine trip reactor scrams and end-of-cycle recirculation pump trip functions prior to exceeding 40 percent of rated thermal power.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed revision to TS and concludes that the proposed change more accurately represents the Setpoint and Allowable Value for turbine first stage pressure and, therefore, is acceptable. Further, since the basis for the setpoint remains unchanged, there is no significant safety impact associated with the proposed change. Accordingly, the Commission concludes that this proposed action would result in no significant radiological environmental impact.

The Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on March 30, 1990 (55 FR 12075). No request for hearing or petition for leave to intervene was filed following this notice.

With regard to potential nonradiological impacts, the proposed change to the TS involves a change to the trip setpoints and allowable values for equipment located within the protected area of the plant. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed amendment.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, an alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendment. This would not reduce environmental impacts of plant operation and would result in reduced operational flexibility.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Perry Nuclear Power Plant, Unit No. 1, dated August 1982.

Agencies and Persons Consulted

The NRC staff reviewed the licensees' request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed license amendment.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for amendment dated May 20, 1988 and a supplement dated November 27, 1989, which are available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC and at the Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Dated at Rockville, Maryland, this 27th day of April 1990.

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. 90–10534 Filed 5–4–90; 8:45 am]

BILLING CODE 7590–01–M

[Dockets Nos. 50–269, 50–270 and 50–287

Duke Power Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses Nos. DPR–38, DPR–47, and DPR–55 issued to Duke Power Company (the licensee) for operation of the Oconee Nuclear Station, Units 1, 2 and 3, located in Oconee County, South Carolina.

Environmental Assessment

Identification of Proposed Action

The proposed amendments would revise the provisions in the Technical Specifications (TSs) to allow an increase in the linear heat rate (LHR) at the 2-foot core elevation level. TS Figure 3.5.2–16, LOCA-Limited Maximum Allowable Linear Heat, would be updated to reflect this change.

The proposed action is in accordance with the licensee's application for amendments dated January 22, 1988, as supplemented October 9, 1989.

The Need for the Proposed Action

The proposed changes to the TSs are required to allow operation at the higher LHR.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed revision to the TSs. The proposed revision would allow the licensee to operate with a higher LHR at the 2-foot core elevation for the first 1000 megawatt days per metric ton uranium (MWd/mtU) of fuel burnup. The limit would increase from 14.0 kw/ft to 14.5 kw/ft for this period of fuel burnup; the current 1000–2600 MWd/mtU burnup parameter would be deleted; and the current LHR limit for greater than 2600 MWd/mtU would apply after 1000 MWd/mtU. The limiting Final Safety Analysis Report (FSAR) accident analysis affected by this change is a large break loss of coolant accident (LOCA). Although the licensee's analysis shows an increase in peak fuel cladding temperatures as a result of this change, the maximum temperature (2028 degrees-F) remains below the maximum temperature allowed by 10 CFR 50.46(b)(1) of 2200 degrees-F. Therefore, the requested change is consistent with NRC requirements and criteria. No changes are being made in the types of any effluents that may be released offsite and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that this proposed action would result in no sigificant radiological environmental impact.

With regard to potential nonradiological impacts, the proposed changes to the TSs involve systems located within the restricted area as defined in 10 CFR Part 20. These changes do not affect nonradiological plant effluents and have no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated withe the proposed amendments.

Notices of Consideration of Issuance of Amendments and Opportunity for Hearing in connection with this action were published in the **Federal Register** on June 2, 1988 (53 FR 20196) and January 26, 1990 (55 FR 2720). No request for hearing or petition for leave to intervene was filed following these notices.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendments. This would not reduce environmental impacts of plant operation and would prevent implementation of the modification which would provide increased operational flexibility.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement related to the Operation of Oconee Nuclear Station, Units 1, 2 and 3, dated March 1972.

Agencies and Persons Consulted

The Commission's staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed license amendments.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for amendments dated January 22, 1988, as supplemented October 9, 1989, which is available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC, and at the Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina 29691.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 25th day of April 1990.

Darl S. Hood,

Acting Director, Project Directorate II-3, Division of Reactor Projects-I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 90-10535 Filed 5-4-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-213]

Connecticut Yankee Atomic Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 125 to Facility Operating License No. DPR-61 issued to Connecticut Yankee Atomic Power Company (the licensee), which revised the Technical Specifications for operation of the Haddom Neck Plant located in Middlesex County, Connecticut. The amendment is effective as of the date of issuance.

The amendment revises the entire current set of Technical Specifications (TS). These TS revisions include: (1) A format change from custom TS to the Westinghouse Standard-format Technical Specifications (WSTS), (2) changes to reflect modifications to the plant such as the new switchgear room (Appendix R), High Pressure Safety Injection Recirculation Path, and Reactor Protection and Nuclear Instrumentation Replacement, (3) changes as recommended by various Generic Letters and changes associated with NUREG-0737 and the Systematic Evaluation Program.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notices of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action were published in the Federal Register as follows:

(1) Application dated October 26, 1988, as supplemented March 6, June 2, June 23, July 28, August 4, August 21 and November 22, 1989 published on September 11, 1989 (54 FR 37521).

(2) Application dated July 31, 1989 published on September 11, 1989 (54 FR 37519).

(3) Application dated July 28, 1989 published on September 11, 1989 (54 FR 37520).

No request for hearing or petition for leave to intervene was filed following the notices.

The Commission has prepared an Environmental Assessment related to the above items and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of this amendment will not have a significant effect on the quality of the human environment.

Notices of Consideration of Issuance of Amendment to Facility Operating License and Proposed no Significant Hazards Consideration Determination and Opportunity for Hearing in connection with this action were published in the Federal Register as follows:

(1) Application dated August 2, 1989 published on September 20, 1989 (54 FR 38763).

(2) Application dated July 28, as supplemented September 29, 1989 published on September 20, 1989 (54 FR 38761).

(3) Application dated November 17, 1987, revised August 29, 1988, as supplemented June 9, July 19 and August 1, 1989, published on December 4, 1988 (53 FR 50323).

The supplemental submittals noted above did not affect the staff's initial proposed no significant hazards consideration determination. No request for a hearing or petition for leave to intervene was filed following the notices.

For further details with respect to the action see (1) the applications for amendment as revised and supplemented noted in items (1) through (6) above, (2) Amendment No. 125 to License No. DPR-61, (3) the Commission's concurrently issued Safety Evaluation and (4) the Commission's Environmental Assessment dated February 14, 1990. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC and at the Local Public Document Room located at the Russell Library, 123 Broad Street, Middletown, Connecticut. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects—I/II.

Dated at Rockville, Maryland this 26th day of April 1990.

For the Nuclear Regulatory Commission.

Alan B. Wang,

Project Manager, Project Directorate I-4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 90-10440 Filed 5-4-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-213]

Connecticut Yankee Atomic Power Co.; Partial Denial of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) has denied requests by Connecticut Yankee Atomic Power Company (the licensee) for amendment to Facility Operating License No. DPR-61, issued to the licensee for operation of the Haddam Neck Plant located in Middlesex County, Connecticut. The Notice of Consideration of Issuance of this amendment was published in the Federal Register September 11, 1988 (54 FR 37521).

The NRC staff has concluded that the requests listed below cannot be granted:

(1) By submittal dated October 26, 1988, the licensee requested that TS section 5.3.1, "Fuel Assemblies" be revised to allow insertion of stainless steel filler rods or vacancies as justified by the cycle-specific reload analysis. The staff has deferred the review of this

request to the resolution of GL 90–02, "Alternative Requirements for Fuel Assemblies In The Design Features Section of Technical Specifications".

(2) By submittal dated June 2, 1989, the licensee requested to add the words "to be repaired" to TS section 4.4.5.4.a.6, "Plugging Limit".

(3) By submittal dated June 2, 1989, the licensee requested that the charging flow indication calibration requirement be removed from the TSs.

(4) By submittal dated June 23, 1989, the licensee proposed an additional ACTION (a) to TS section 3.3.3.2, "The Movable Incore Detector System". The proposed action statement stated that with less than the minimum number of detector thimbles required, the movable incore detector system could be used if penalty factors are applied to the linear heart generation rate or quadrant power tilt; or during recalibration of the system.

By June 4, 1990, the licensee may demand a hearing with respect to the denial described above. Any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for hearing or 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. A copy of any petitions should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Gerald Garfield, Esquire, Day, Berry and Howard, Counselors at Law, City Place, Hartford, Connecticut 06457, attorney for the licensee.

For further details with respect to this action, see (1) the applications for amendment dated October 26, 1988, June 2, and June 23, 1989, and (2) the Commission's letter to the licensee dated April 26, 1990.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Streeet, NW., Washington, DC and at the Russell Library, 123 Broad Street, Middletown, Connecticut. A copy of Item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Document Control Desk.

Dated at Rockville, Maryland, this 26th day of April 1990.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, Project Directorate I–4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 90–10441 Filed 5–4–90; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–322]

Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1); Exemption

I

Long Island Lighting Company (the licensee) is the holder of Facility Operating License No. NPF–82 which authorizes operation of the Shoreham Nuclear Power Station (SNPS). The facility is a boiling water reactor located at licensee's site in Suffolk County, New York. It is currently defueled and the licensee, in its letter of January 12, 1990, committed not to place nuclear fuel back into the Shoreham reactor without prior NRC approval. By Confirmatory Order dated March 29, 1990, "the licensee is prohibited from placing any nuclear fuel into the Shoreham reactor vessel without prior approval from the NRC." This license provides, among other things, that it is subject to all rules, regulations and orders of the Commission now or hereafter in effect.

II

Pursuant to 10 CFR 50.54(w), each commerical power reactor licensee shall, by June 29, 1982, take reasonable steps to obtain onsite property damage insurance available at reasonable costs and on reasonable terms from private sources or to demonstrate to the satisfaction of the Nuclear Regulatory Commission (the Commission) that it possesses an equivalent amount of protection covering the facility, provided, among other things, that this insurance must have a minimum coverage limit no less than the combined total of (i) that offered by either American Nuclear Insurers (ANI) and Mutual Atomic Energy Reinsurance Pool (MAERP) jointly or Nuclear Mutual Limited (NML); plus (ii) that offered by Nuclear Electric Insurance Limited (NEIL), the Edison Electric Institute (EEI), ANI and MAERP jointly, or NML as excess property insurance. On August 5, 1987, the NRC amended this regulation to require a minimum coverage limit for the reactor station site of either 1.06 billion dollars or whatever amount of insurance is generally available from private sources, whichever is less (52 FR 28963).

III

The licensee prior to this change was required to carry the full amount of on-site primary property damage insurance coverage (1.06 billion dollars). By letter dated September 8, 1989, the licensee requested an exemption to reduce the amount of property damage insurance from the full amount of 1.06 billion dollars to 337 million dollars. The licensee states that the requirement to fully comply with the regulation represents an undue financial hardship and burden, and that maintaining a lower level of primary property damage insurance will reduce the capital cost of the SNPS by 1.66 million dollars a year until LILCO is authorized to transfer ownership of the SNPS plant to the Long Island Power Authority (LIPA) or some other entity of New York State. By letter dated September 8, 1989, the licensee provided its justification that 337 million dollars of primary property damage insurance provides an adequate level of coverage to stabilize, clean up or decontaminate the SNPS plant based on the limited and much less severe accidents that could occur given the SNPS defueled condition.

The NRC may grant exemptions from the requirements of the regulations which, pursuant to 10 CFR 50.12(a) are (1) authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security, and (2) present special circumstances. Pursuant to 10 CFR 50.12(a)(2)(iii) special circumstances exist if compliance would result in undue hardship or costs in excess of those contemplated when the regulation was adopted, or costs that are significantly in excess of those incurred by others similarly situated.

By letter dated September 8, 1989, the licensee requested an exemption from one of the requirements of 10 CFR 50.54(w)(1). The licensee has requested that it not be required to carry the full amount (1.06 billion dollars) of the required onsite property insurance until such time as it is authorized to transfer ownership of the SNPS plant to LIPA or some other entity of New York State. This limit is based on the SNPS's current defueled condition and its previous May 31, 1988 partial exemption from these requirements for operation at up to 5% of rated power (53 FR 21955).

LILCO contends that exemption from the requirement for the full amount of onsite damage insurance while in the prolonged defueled condition is justified by the following:

1. Application of the regulation in the particular circumstances would not

serve the underlying purpose of the rule and is not necessary to achieve its underlying purpose, § 50.12(a)(2)(ii), and

2. Compliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted and that are significantly in excess of those incurred by others similarly situated, § 50.12(a)(2)(iii).

LILCO has requested that in lieu of the current required coverage, that it be allowed to carry 337 million dollars of onsite insurance. LILCO calculated this amount based on the results and methods from NUREG/CR–2601 used to derive the current 1.06 billion dollar required amount, and the Commission's authorization for this amount of coverage to be provided when it granted an exemption from the insurance requirements of 10 CFR 50.54(w) for low power operation.

IV

The staff has reviewed the licensee's request for exemption and finds that requiring the licensee to carry the full amount of on-site property damage insurance coverage, 1.06 billion dollars, as required by 10 CFR 50.54(w)(1), would result in undue hardship, costs in excess of those contemplated when the regulation was adopted and costs in excess of those incurred by others similarly situated.

The staff also concludes that issuance of this exemption will have no significant effect on the safety of the public or the plant. Further, the licensee has shown special circumstances as described in the staff's supporting safety evaluation to support the exemption.

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of this exemption will have no significant impact on the environment (February 23, 1990, 55 FR 6566).

Accordingly, the Commission has determined that pursuant to 10 CFR 50.12(a)(1) the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. as indicated above, compliance with 10 CFR 50.54(w)(1) would result in undue costs considering the current operational restrictions placed on the Shoreham facility, and costs that are significantly in excess of the cost incurred for similar insurance by the other facilities in similar circumstances. Thus, special circumstances as described in § 50.12(a)(2)(iii) exist. Consequently, the exemption falls within special circumstances determined by the Commission to be sufficient to support the exemption. Therefore, the Commission hereby approves the following exemption:

The licensee is exempt from the requirement to carry onsite property damage insurance coverage in the full amount called for by 10 CFR 50.54(w)(1) until such time that LILCO places nuclear fuel into the Shoreham reactor vessel, provided that the licensee maintain such onsite property damage insurance in an amount not less than 337 million dollars.

The applicant's letter dated September 8, 1989, and the NRC staff's letter and Safety Evaluation dated April 30, 1990 related to this action are available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555, and the Shoreham-Wading River Public Library, Route 25A, Shoreham, New York 11786.

The exemption is effective 10 working days from the date of issuance.

Dated at Rockville, Maryland this 30th day of April 1990.

Steven A. Varga,

Director, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 90–10536 Filed 5–4–90; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–267]

Public Service Company of Colorado (Fort St. Vrain Nuclear Generating Station); Confirmatory Order Modifying License

I

Public Service Company of Colorado (the licensee) is the holder of Facility Operating License No. DPR–34 issued by the Nuclear Regulatory Commission (the NRC) pursuant to 10 CFR part 50 on December 21, 1973. The license authorizes the operation of the Fort St. Vrain Nuclear Generation Station (FSV) at a steady-state power level not in excess of 842 megawatts thermal. FSV is a high-temperature gas-cooled reactor (HTGR) located at the licensee's site in Weld County, Colorado.

II

FSV was shutdown on August 18, 1989, because of control rod failures. The shutdown was made permanent because of subsequent discovery of degradation of steam generator ring headers. By letter dated November 21, 1989, the licensee committed not to take the FSV reactor to criticality and not to operate the reactor at any power level.

The licensee had initially planned to terminate FSV operations by June 30, 1990, for economic reasons. However, because of the problems encountered with the control rods and steam generators and the time and financial resources required to correct these problems it was decided to prepare for an early decommissioning. The licensee began defueling on November 27, 1989, and completed the removal of one-third of the core (the maximum capacity of its on-site fuel storage wells) on February 7, 1990. Completion of defueling is held up pending resolution of final disposition of the spent fuel. The licensee plans to either ship spent fuel to a DOE facility located in Idaho for reprocessing or to construct an independent spent fuel storage installation.

By letter dated October 24, 1989, the licensee committed to comply with applicable Technical Specifications, Final Safety Analysis Report (FSAR) and Fire Protection Program Plan requirements, Security Plan requirements, QA Program requirements, and Emergency Preparedness requirements during shutdown and defueling. The licensee assured the NRC that it will request relief from the NRC prior to downgrading activities in any of these areas. Although there has been some reduction in operating and support staff, the NRC has concluded that the present staffing level is adequate to support plant operations during the present shutdown status.

III

The NRC has determined that the public health and safety require that the licensee not operate for the following reasons: (1) The failure of the control rod drives and degradation of the steam generator ring headers, and (2) the absence of NRC-approved procedures for returning to an operational status, systems and equipment that the licensee would need to repair or that the licensee has deactivated rather than maintain in an operationally ready condition. Such systems and equipment include control rod drives, steam generators, the cryogenic helium cleanup system, most of the plant's safety-related systems, and most of the plant's auxiliary support systems. The NRC believes that further operation of FSV would be unsafe in its current state without determining the root cause of its failures and without taking appropriate corrective actions.

On November 21, 1989, the licensee submitted a letter in which it stated that it would not take the FSV reactor critical or operate it at any power level. I find the licensee's commitment as set forth in its letter of November 21, 1989, acceptable and necessary, and I conclude that with this commitment, the plant's safety is reasonably assured. In view of the foregoing, I have determined

that the public health and safety require that the licensee's commitment in its November 21, 1989, letter not to take the FSV reactor critical and not to operate the reactor at any power level be confirmed by this Order. Pursuant to 10 CFR 2.204, I have also determined that the public health and safety require that this Order be effective immediately. This Confirmatory Order in no way relieves the licensee of the terms and conditions of its operating license.

IV

Accordingly, pursuant to sections 103, 161b, and 161i of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204 and 10 CFR part 50, *it is hereby ordered*, effective immediately, that Facility Operating License No. DPR–34 is modified as follows:

The licensee is prohibited from taking the Fort St. Vrain reactor to criticality and the facility shall not be operated at any power level.

V

Any person whose interest may be adversely affected by this order may request a hearing on this order within 20 days of the date of issuance. Any request for a hearing should be addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Chief, Docketing and Services Branch, Office of the Secretary. Copies shall also be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555; to the Assistant General Counsel for Hearings and Enforcement, Office of the General Counsel, at the same address; and to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region IV, 611 Ryan Plaza Drive, Suite 1000, Arlington, Texas 76011. If any such person requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this order and should address the criteria set forth in 10 CFR 2.714(a). A request for hearing shall not stay the immediate effectiveness of this confirmatory order.

If a hearing is requested by any person who is adversely affected, the Commission will issue an order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

Dated at Rockville, Maryland, this 1st day of May 1990.

For the Nuclear Regulatory Commission.

Thomas E. Murley,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 90–10537 Filed 5–4–90; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. STN 50–312]

Sacramento Municipal Utility District (Rancho Seco Nuclear Generating Station); Exemption

I

By letter dated October 20, 1989, the Sacramento Municipal Utility District (SMUD, the license) owner and operator of the Rancho Seco Nuclear Generating Station, requested an exemption from the requirements of 10 CFR part 50, Appendix J due to the defueled condition of the plant. Rancho Seco is a pressurized water reactor located in Sacramento County California. Appendix J of 10 CFR part 50 requires licensees of nuclear power reactors to perform primary containment leakage testing.

II

The requirements of 10 CFR part 50, Appendix J do not allow licensees to discontinue the performance of primary reactor containment leakage testing when containment integrity is not required due to plant conditions. According to the licensee's Technical Specifications, section 3.6 and 3.8, containment integrity is not required when the reactor vessel is defueled and all the fuel is removed from the reactor building and stored in the Spent Fuel Pool.

The licensee ceased power operations at Rancho Seco on June 7, 1989, and completed defueling the reactor vessel on December 8, 1989, with all fuel stored in the spent fuel pool. The request for an exemption from performing primary reactor containment testing per 10 CFR part 50, Appendix J is based on the above plant conditions and the licensee's intent to not resume power operations at Rancho Seco. This exemption shall continue in effect only so long as the facility is maintained in its current condition and no fuel is placed in the reactor; it does not relieve the licensee from compliance with the test requirements of 10 CFR part 50, Appendix J in the event of any future operation of Rancho Seco.

The proposed exemption does not affect the risk of facility accidents due to the defueled condition of the plant. With the reactor vessel defueled and all fuel stored in the spent fuel pool, there are no longer any creditable design basis accidents associated with the reactor building. Requiring the performance of containment leakage tests when containment integrity is not required does not serve the underlying purpose of the rule; however, performance of the tests would result in undue hardship and cost. For these reasons, the staff finds that the requested exemption is acceptable.

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a)(1), this exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. The Commission further determines that special circumstances, as provided in 10 CFR 50.12(a)(2)(ii), are present to justify the exemption. The referenced special circumstances pertain to exemptions to regulations which do not alter the underlying purpose of the regulations. Due to Rancho Seco's defueled condition, containment integrity is not required. Therefore the exemption cannot alter the underlying purpose of the requirement to maintain containment leak tightness.

Accordingly, the Commission hereby grants an exemption as described in section II above from compliance with the requirements of Appendix J, of 10 CFR part 50. The licensee may discontinue primary containment leakage testing while the facility is in a defueled condition.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the quality of the human environment, March 5, 1990, (55 FR 7796).

This exemption is effective upon issuance.

Dated at Rockville, Maryland this 26th day of April, 1990.

For the Nuclear Regulatory Commission.

Gary M. Holahan,

Acting Director, Division of Reactor Projects III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 90–10442 Filed 5–4–90; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–312]

Sacramento Municipal Utility District, et al (Rancho Seco Nuclear Generating Station); Exemption

I

Section 50.71(e)(4) of 10 CFR part 50 requires licensees of nuclear power

reactors to revise the Updated Safety Analysis Report (USAR) at least once a year. The USAR revisions shall reflect all changes up to a maximum of 6 months prior to the date of filing the revision.

By letter dated September 25, 1989, the Sacramento Municipal Utility District (SMUD, the licensee), owner and operator of the Rancho Seco Nuclear Generating Station, requested an exemption for submitting the next revision of the USAR until the time the decommissioning plan was submitted. Subsequent discussion between the NRC and SMUD resulted in the licensee requesting a five month extension for submitting the next revision to the USAR. The next revision, Amendment 7, was due no later than January 22, 1990. The licensee's request would extend the due date to no later than June 22, 1990. Subsequent revisions would be due on an annual schedule beginning on June 22, 1991.

II

The request for an extension of the submittal date for the USAR revision is based on the cessation of power operation at Rancho Seco on June 7, 1989, and the completion of defueling the reactor on December 8, 1989. Defueling the reactor was the last major action associated with a normal operational nuclear facility, and in an effort to include all the modifications at Rancho Seco relevant to a normal operational nuclear facility prior to the licensee commencing permanent plant closure activities, the licensee requested the extension. Under the existing USAR revision schedule, a licensee submittal was due no later than January 22, 1990. Plant modifications, in place six months prior to the due date, are required to be addressed in the submittal. As a result, a USAR update submittal on January 22, 1990, would only have included a plant description and safety analysis that is current through June 22, 1989. The last six months of 1989 were a period where modifications associated with a normal operational nuclear facility continued, including extensive modifications to the fuel handling equipment and a USAR update submittal on January 22, 1990 would not have included these changes.

Based on the timing of the Rancho Seco plant modifications, the completion of defueling, and the licensee's decision to close the facility, the staff finds that there is good cause for the licensee's request for extension of the next USAR revision. A revised USAR submitted on June 22, 1990, will address plant changes through December 1989 and should include the final versions of all modifications at Rancho Seco as a normal operational nuclear facility. The staff finds that the requested extension is acceptable.

For these reasons, the staff finds that the licensee has shown good cause for the requested extension for submittal of Amendment 7 to the USAR. Therefore, the requested extension to June 22, 1990 is acceptable.

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a)(1), this exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. The Commission further determines that special circumstances, as provided in 10 CFR 50.12(a)(2)(ii), are present to justify the exemption. The referenced special circumstances pertain to exemptions to regulations which do not alter the underlying purpose of the regulations. Extending the due date for the next USAR update, under the circumstances described, does not alter the underlying purpose of the requirement to maintain the USAR current.

Accordingly, the Commission hereby grants an exemption as described in section II above from § 50.71(e)(4) of 10 CFR part 50 to extend the date for submittal of the next USAR revision to June 22, 1990.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the quality of the human environment March 1, 1990, (55 FR 7393).

This exemption is effective upon issuance.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland this 26 day of April 1990.

Gary M. Holahan,

Acting Director, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 90–10443 Filed 5–4–90; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

ACTPN Task Force on Industrial Subsidies Defense Policy Advisory Committee on Trade Advisory Committee for Trade Policy and Negotiations, Meetings and Determination of Closing of Meetings

The meetings of the ACTPN Task Force on Industrial Subsidies to be held May 11, 1990, from 9 a.m. to 3 p.m., in Washington, DC, and the Defense Policy Advisory Committee on Trade to be held May 15, 1990, from 9 a.m. to 4 p.m., in Washington, DC, and the Advisory Committee for Trade Policy and Negotiations to be held May 22, 1990, from 1:30 p.m. to 4:30 p.m., in Washington, DC, will include the development, review and discussion of current issues which influence the trade policy of the United States. Pursuant to section 2155(f)(2) of title 19 of the United States Code, I have determined that these meetings will be concerned with matters the disclosures of which would seriously compromise the Government's negotiating objectives or bargaining positions.

Additional information can be obtained by contacting Mollie Van Heuven, Director, Office of Private Sector Liaison, Office of the United States Trade Rerpresentative, Executive Office of the President, Washington, DC 20506.

Carla A. Hills,

United States Trade Representative.

[FR Doc. 90–10539 filed 5–4–90; 8:45 am]

BILLING CODE 3190–01–M

SECURITIES AND EXCHANGE COMMISSION

[File No. 1–8641]

Issuer Delisting; Application To Withdraw From Listing and Registration by Coeur d'Alene Mines Corporation, Common Stock, $1.00 Par Value; Preferred Stock Purchase Rights

May 1, 1990.

Coeur D'Alene Mines Corporation ("Company") has filed an application with the Securities and Exchange Commission ("Commission") pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2–2(d) promulgated thereunder to withdraw the above specified security from listing and registration on the American Stock Exchange, Inc. ("AMEX").

The reasons alleged in the application for withdrawing these securities from listing and registration include the following:

The Company's common stock recently was listed on the New York Stock Exchange ("NYSE"). Trading in the Company's stock on the NYSE commenced on April 18, 1990. In making the decision to withdraw its common stock from listing on the AMEX, the Company considered the direct and indirect costs and expenses attendant on maintaining the dual listing of its

common stock on the NYSE and the AMEX. The Company does not see any particular advantage in the dual trading of its stock and believes that dual listing would fragment the market for its common stock.

Any interested person may, on or before May 22, 1990, submit by letter to the Secretary of the Commission, 450 Fifth Street NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-10545 Filed 5-4-90; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-9703]

Issuer Delisting; Application To Withdraw From Listing and Registration by Skolniks, Inc., Common Stock, $.001 Par Value; Warrants $.001 Par Value

May 1, 1990.

Skolniks, Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission") pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder to withdraw the above specified security from listing and registration on the American Stock Exchange, Inc. ("AMEX").

The reasons alleged in the application for withdrawing these securities from listing and registration include the following:

Trading in the Company's stock and warrants on the National Association of Securities Dealers Automated Quotations System ("NASDAQ") commenced on April 10, 1990. In making the decision to withdraw its common stock from listing on the AMEX, the Company considered the direct and indirect costs and expenses attendant on maintaining the dual listing of its common stock on the NASDAQ and the AMEX. The Company does not see any particular advantage in the dual trading of its stock and believes that dual listing would fragment the market for its common stock.

Any interested person may, on or before May 22, 1990, submit by letter to the Secretary of the Commission, 450 Fifth Street NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-10546 Filed 5-4-90; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Home Owners Federal Savings and Loan Association; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(A) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Home Owners Federal Savings and Loan Association, Boston, Massachusetts ("Association"), on April 27, 1990.

Dated: May 1, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-10531 Filed 5-4-90; 8:45 am]

BILLING CODE 6720-01-M

Pacific Coast Federal Savings Association of America; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) (B) and (H) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Pacific Coast Federal Savings Association of America, San Francisco, California ("Association"), on April 27, 1990.

Dated: May 1, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-10523 Filed 5-4-90; 8:45 am]

BILLING CODE 6720-01-M

Santa Barbara Savings and Loan Association; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) (B) and (H) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Santa Barbara Savings and Loan Association, Santa Barbara, California ("Association"), on April 27, 1990.

Dated: May 1, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-10524 Filed 5-4-90; 8:45 am]

BILLING CODE 6720-01-M

Financial Federal Savings and Loan Association; Replacement of Conservator with a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Financial Federal Savings and Loan Association, Joplin, Missouri ("Association"), OTS docket No. 3485, with the Resolution Trust Corporation as sole Receiver for the Association on April 27, 1990.

Dated: May 1, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-10520 Filed 5-4-90; 8:45 am]

BILLING CODE 6720-01-M

Heritagebanc Savings Association; Replacement of Conservator with a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Heritagebanc Savings Association, Duncanville, Texas ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on April 27, 1990.

Dated: May 1, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–0521 Filed 5–4–90; 8:45 am]

BILLING CODE 6720–01–M

Libertyville Federal Savings and Loan Association; Replacement of Conservator with a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Libertyville Federal Savings and Loan Association, Libertyville, Illinois ("Association") with the Resolution Trust Corporation as sole Receiver for the Association on April 27, 1990.

Dated: May 1, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–10522 Filed 5–4–90; 8:45 am]

BILLING CODE 6720–01–M

[OTS No. 0148; AC–16]

Ellwood Federal Savings Bank; Final Action Approval of Conversion Application

April 27, 1990.

Notice is hereby given that on April 16, 1990, the designee of the Chief Counsel, Office of Thrift Supervision, acting pursuant to the authority delegated to him, approved the application of Ellwood Federal Savings Bank, Ellwood City, Pennsylvania, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552, and District Director, Office of Thrift Supervision, Pittsburgh District Office, One Riverfront Center, 20 Stanwix Street, Pittsburgh Pennsylvania 15222–4893.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–10517 Filed 5–4–90; 8:45 am]

BILLING CODE 6720–01–M

[OTS No. 0723; AC–19]

Security Federal Savings Bank; Final Action Approval of Conversion Application

April 27, 1990.

Notice is hereby given that on April 23, 1990, the designee of the Chief Counsel, Office of Thrift Supervision, acting pursuant to the authority delegated to him, approved the application of Security Federal Savings Bank, Durham, North Carolina, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552, and District Director, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552, and District Director, Office of Thrift Supervision, Atlanta District Office, 1475 Peachtree Street NE., Atlanta, Georgia 30309.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–10518 Filed 5–4–90; 8:45 am]

BILLING CODE 6720–01–M

[OTS No. 0208; AC–18]

Workingmen's Federal Savings and Loan Association; Final Action Approval of Conversion Application

April 27, 1990.

Notice is hereby given that on April 25, 1990, the designee of the Chief Counsel, Office of the Thrift Supervision, acting pursuant to the authority delegated to him, approved the application of Workingmen's Federal Savings and Loan Association, Bloomington, Indiana, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552, and the District Director, Office of Thrift Supervision, 8250 Woodfield Crossing Blvd., Suite 305, Indianapolis, Indiana 46240.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–10519 Filed 5–4–90; 8:45 am]

BILLING CODE 6720–01–M

First Federal Savings and Loan Association; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in § 5(d)(2)(F) of the Home Owners' Loan Act of 1933, as amended by § 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for First Federal Savings and Loan Association, Bakersfield, California ("Association"), on April 27, 1990.

Dated: May 1, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–10529 Filed 5–4–90; 8:45 am]

BILLING CODE 6720–01–M

First Federal Savings and Loan Association of the Florida Keys; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in § 5(d)(2)(F) of the Home Owners' Loan Act of 1933, as amended by § 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for First Federal Savings and Loan Association of the Florida Keys, Key West, Florida ("Association"), on April 27, 1990.

Dated: May 1, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–10530 Filed 5–4–90; 8:45 am]

BILLING CODE 6720–01–M

Replacement of Conservator With a Receiver; Guardian Federal Savings and Loan Association

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of Sc 5(d)(2) of the Home Owners' Loan Act of 1933, as amended by Sc 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for The Guardian Federal Savings and Loan Association, Bakersfield, California ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on April 27, 1990.

Dated: May 1, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–10532 Filed 5–4–90; 8:45 am]

BILLING CODE 6720–01–M

Mid Missouri Savings and Loan Association, F.A.; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in § 5(d)(2)(F) of the Home Owners' Loan Act of 1933, as amended by § 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Mid Missouri Savings and Loan Association, F.A., Boonville, Missouri ("Association"), on April 27, 1990.

Dated: May 1, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–10527 Filed 5–4–90; 8:45 am]

BILLING CODE 6720–01–M

New Guaranty Federal Savings and Loan Association; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in § 5(d)(2)(F) of the Home Owners' Loan Act of 1933, as amended by § 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for New Guaranty Federal Savings and Loan Association, Taylor, Michigan ("Association"), on April 27, 1990.

Dated: May 1, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–10525 Filed 5–4–90; 8:45 am]

BILLING CODE 6720–01–M

Appointment of Receiver; Pacific Coast Savings and Loan Association of America

Notice is hereby given that, pursuant to the authority contained in § 5 (d)(2) (F) of the Home Owners' Loan Act of 1933, as amended by § 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Pacific Coast Savings and Loan Association of America, San Francisco, California ("Association"), OTS Docket No. 7849, on April 27, 1990.

Dated: May 1, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–10526 Filed 5–4–90; 8:45 am]

BILLING CODE 6720–01–M

Westco Savings Bank, Federal Savings Bank; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in § 5(d)(2)(F) of the Home Owners' Loan Act of 1933, as amended by § 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Westco Savings Bank, Federal Savings Bank, Wilmington, California ("Savings Bank"), on April 27, 1990.

Dated: May 1, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–10528 Filed 5–4–90; 8:45 am]

BILLING CODE 6720–01–M

[AC–17; OTS No. 6413]

Home Federal Savings and Loan Association of Rockford, IL; Final Action Approval of Conversion Application

Date: April 27, 1990.

Notice is hereby given that on March 29, 1990, the designee of the Chief Counsel, Office of the Thrift Supervision, acting pursuant to the authority delegated to him, approved the application of Home Federal Savings and Loan Association of Rockford, Rockford, Illinois, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, and District Director, Office of Thrift Supervision, Chicago District Office, 111 East Wacker Drive, suite 800, Chicago, Illinois 60601.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–10533 Filed 5–4–90; 8:45 am]

BILLING CODE 6720–01–M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 88
Monday, May 7, 1990

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).

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Commission Meeting, 3:30 p.m., Tuesday, May 1, 1990.

LOCATION: Room 440, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Closed to the Public.

MATTERS TO BE CONSIDERED:

Enforcement Matter OS# 5556

The Office of General Counsel staff will give legal advice to the Commission on an enforcement matter.

The Commission decided by unanimous vote that agency business required scheduling this meeting without the normal seven days notice.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, MD 20207, 301–492–6800.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 90–10651 Filed 5–3–90; 12:25 pm]

BILLING CODE 6355–01–M

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Commission Meeting, 2:00 p.m., Thursday, May 3, 1990.

LOCATION: Room 440, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Closed to the Public.

MATTERS TO BE CONSIDERED:

Enforcement Matter OS# 5556

The Office of General Counsel staff will give legal advice to the Commission on an enforcement matter.

The Commission decided by unanimous vote that agency business required scheduling this meeting without the normal seven days notice.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, MD 20207, 301–492–6800.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 90–10652 Filed 5–3–90; 12:25 pm]

BILLING CODE 6355–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of May 7, 1990.

A closed meeting will be held on Thursday, May 10, 1990, at 9:30 a.m.

The Commissioners, Counsel to the Commissioners, the Secretary to 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 Lochner, 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 Thursday, May 10, 1990, at 9:30 a.m., will be:

Institution of injunctive actions.
Institution of administrative proceedings of an enforcement nature.
Settlement of injunctive actions.
Settlement of administrative proceedings of an enforcement nature.

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: Holly Smith at (202) 272–2100.

May 2, 1990.

Jonathan G. Katz,

Secretary.

[FR Doc. 90–10653 Filed 5–3–90; 12:33 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [55 FR 17714 April 26, 1990.]

STATUS: Open/closed meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Monday, April 23, 1990.

CHANGE IN THE MEETING: Deletion.

The following item was not considered at an open meeting on Friday, April 27, 1990, at 1:00 p.m.

The Commission will hear oral argument in connection with its review of an administrative law judge's initial decision with respect to Arthur James Huff. For further information, please contact Herbert Efron at (202) 272–7400.

The following item was not considered at a closed meeting scheduled for Friday, April 27, 1990, following the 1:00 p.m. open meeting.

Post oral argument discussion.

Commissioner Lochner, as duty officer, determined that Commission business required the above changes.

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.

May 2, 1990.

Johnathan G. Katz,

Secretary.

[FR Doc. 90–10664 Filed 5–3–90; 12:56 pm]

BILLING CODE 8010–01–M

Corrections

Federal Register
Vol. 55, No. 88
Monday, May 7, 1990

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

Agricultural Marketing Service

7 CFR Part 52

[FV-88-203]

United States Standards For Grades of Canned Pineapple

Correction

In the issue of Thursday, February 15, 1990, on page 5541, beginning in the first column, in the correction to rule document 90-1923 [55 FR 3035, Jan. 30, 1990], a portion of the text that appeared was incorrect and should read as follows:

§ 52.1717 [Corrected]

6. On the same page, in the 3rd column, in § 52.1717(a), in the 13th line, "ate" should read "are".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

[Announcement No. 026]

Project Grants for Preventive Health Services; Sexually Transmitted Diseases Research and Demonstration

Correction

In notice document 90-9427 beginning on page 17308 in the issue of Tuesday, April 24, 1990, make the following correction:

On page 17309, in the first column, after the paragraph under the heading "Where To Obtain Additional Information" add the following:

"Please refer to Announcement Number 026, 'Project Grants for Sexually Transmitted Disease Research and Demonstrations' in all requests for information pertaining to these projects.

Technical assistance may be obtained from Alfred A. Harry, Division of Sexually Transmitted Diseases, Center for Prevention Services, Centers for Disease Control, Atlanta, GA 30333, (404) 639-2586 or FTS 236-2586."

BILLING CODE 1505-01-D

federal register

Monday
May 7, 1990

Part II

Department of Education

Ronald E. McNair Post-Baccalaureate Achievement Program; Notice Inviting Applications for New Grants for Fiscal Year 1990

DEPARTMENT OF EDUCATION

[CFDA No. 84.217]

Ronald E. McNair Post-Baccalaureate Achievement Program; Notice Inviting Applications for New Grants for Fiscal Year 1990

Note to Applicants: This notice is a complete application package. Together with the statute authorizing the program and the Education Department General Administrative Regulations (EDGAR), the notice contains information, application forms and instructions needed to apply for new grants under this program.

Purpose of Program: The purpose of this program is to provide grants for higher education institutions to prepare low-income individuals who are first-generation college students, and students from groups underrepresented in graduate education, for doctoral study.

Deadline for Transmittal of Applications: June 22, 1990.

Available Funds: $1,300,000.

Estimated Range of Awards: $80,000–$120,000 per year.

Estimated Average Size of Awards: $100,000 per year.

Estimated Number of Awards: 12.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 24 months.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR part 74 (Administration of Grants to Institutions of Higher Education, Hospitals and Nonprofit Organizations), part 75 (Direct Grant Programs), part 77 (Definitions that Apply to Department Regulations), part 79 (Intergovernmental Review of Department of Education Programs and Activities), part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments), part 82 (Government-wide Requirements for Disclosure of Lobbying Activities (Grants and Cooperative Agreements)), part 85 (Government-wide Debarment and Suspension (Nonprocurement) and (Government-wide Requirements for Drug-Free Workplace (Grants)).

Description of Program: A post-baccalaureate achievement project assisted under this program may provide, at the undergraduate and graduate levels, services such as—

(1) Opportunities for research or other scholarly activities at the institution or at graduate centers designed to provide students with effective preparation for doctoral study;

(2) Summer internships;

(3) Seminars and other educational activities designed to prepare students for doctoral study;

(4) Tutoring;

(5) Academic counseling; and

(6) Activities designed to assist students participating in the project in securing admission to and financial assistance for enrollment in graduate programs.

Instructions for Part III—Application Narrative

Before preparing the Application Narrative, an applicant should read carefully all the information included in the notice, especially the program purpose, and the Selection Criteria the Secretary uses to evaluate applications. The narrative should encompass each function or activity for which funds are being requested and should—

1. Begin with a one-page abstract; that is, a summary of the proposed project;

2. Describe the program to be developed and operated by the grant and provide information on how the purposes of the program are to be met;

3. Describe the proposed project in light of the information required by the program legislation (see Description of Program (i)–(iii)) and each of the selection criteria in the order the criteria are listed in this notice; and

4. Include any other pertinent information that might assist the Secretary in reviewing the application. Please limit the Application Narrative to no more than 50 double-spaced typed pages (on one side only).

Students participating in research under a post-baccalaureate achievement project may receive stipends not to exceed $2,400 per annum.

In addition to information relevant to the selection criteria, an applicant must include information on the following in the application:

(i) The quality of research and other scholarly activities in which students will be involved;

(ii) The level of faculty involvement in the project and the description of the research in which students will be involved; and

(iii) The institution's plan for identifying and recruiting participants, including students enrolled in projects authorized under this program.

An applicant may submit information on a photostatic copy of the application and budget forms, the assurance forms, and the certification form. However, the application form, the assurance forms, and the certification form must each have an *original signature.* No grant may be awarded unless a completed application package has been received.

Selection Criteria

(a)(1) The Secretary uses the following selection criteria to evaluate applications for new grants under this competition.

(2) The maximum score for all of these criteria is 100 points.

(3) The maximum score for each criterion is indicated in parentheses.

(b) *The criteria.*—(1) *Meeting the purposes of the authorizing statute.* (30 points) The Secretary reviews each application to determine how well the project will meet the purpose of Title IV–A, Sec. 417D(d) of the Higher Education Act of 1965, as amended, including consideration of—

(i) The objectives of the project; and

(ii) How the objectives of the project further the purposes of the Ronald E. McNair Post-Baccalaureate Achievement Program.

(2) *Extent of need for the project.* (20 points) the Secretary reviews each application to determine the extent to which the project meets specific needs recognized in Title IV–A, Sec. 417D(d) of the Higher Education Act of 1965, as amended, including consideration of—

(i) The needs addressed by the project;

(ii) How the applicant identified those needs;

(iii) How those needs will be met by the project; and

(iv) The benefits to be gained by meeting those needs.

(3) *Plan of operation.* (25 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(i) The quality of the design of the project;

(ii) The extent to which the plan of management is effective and ensures proper and efficient administration of the project;

(iii) How well the objectives of the project relate to the purpose of the program;

(iv) The quality of the applicant's plan to use its resources and personnel to achieve each objective;

(v) How the applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or handicapping condition; and

(vi) For grants under a program that requires the applicant to provide an opportunity for participation of students enrolled in private schools, the quality of the applicant's plan to provide that opportunity.

(4) *Quality of key personnel.* (10 points)

(i) The Secretary reviews each application to determine the quality of key personnel the applicant plans to use on the project, including—

(A) The qualifications of the project director (if one is to be used);

(B) The qualifications of each of the other key personnel to be used in the project;

(C) The time that each person referred to in paragraph (b)(4)(i) (A) and (B) will commit to the project; and

(D) How the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition.

(ii) To determine personnel qualifications under paragraphs (b)(4)(i) (A) and (B), the Secretary considers—

(A) Experience and training in fields related to the objectives of the project; and

(B) Any other qualifications that pertain to the quality of the project.

(5) *Budget and cost effectiveness.* (5 points) The Secretary reviews each application to determine the extent to which—

(i) The budget is adequate to support the project; and

(ii) Costs are reasonable in relation to the objectives of the project.

(6) *Evaluation plan.* (5 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(i) Are appropriate to the project; and

(ii) To the extent possible, are objective and produce data that are quantifiable.

(Cross-reference: See 34 CFR 75.590 Evaluation by the grantee.)

(7) *Adequacy of resources.* (5 points) The Secretary reviews each application to determine the adequacy of the resources that the applicant plans to devote to the project, including facilities, equipment, and supplies.

Intergovernmental Review of Federal Programs

This program is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR part 79.

The objective of the Executive order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive Order 12372. Applicants proposing to perform activities in more than one State should immediately contact the Single Point of Contact for each of those States and follow the procedure established in each State under the Executive order. If you want to know the name and address of any State Single Point of Contact, see the list published in the **Federal Register** on September 15, 1989, pages 38342–38343.

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, E.O. 12372—CFDA #84.217, U.S. Department of Education, Room 4161, 400 Maryland Avenue SW., Washington, DC 20202–0125.

Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (Washington, DC time) on the date indicated in this notice.

PLEASE NOTE THAT THIS ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATION TO THE ABOVE ADDRESS.*

Instructions for Transmittal of Applications

(a) If an applicant wants to apply for a grant, the applicant shall—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA #84.217), Washington, DC 20202–4725 or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. (Washington, D.C. time) on the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA #84.217), Room #3633, Regional Office Buidling #3, 7th and D Streets SW, Washington, DC.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) The Application Control Center will mail a Grant Application Receipt Acknowledgment to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 732–2495.

(3) The applicant *must* indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number—and letter, if any—of the competition under which the application is being submitted.

Application Instructions and Forms

The appendix to this application is divided into three parts plus a statement regarding estimated public reporting burden and various assurances and certifications. These parts and additional materials are organized in the same manner that the submitted application should be organized. The parts and additional materials are as follows:

Part I: Application for Federal Assistance (Standard Form 424 (Rev. 4–88)) and instructions.

Part II: Budget Information—Non-Construction Programs (Standard Form 424A) and instructions.

Part III: Application Narrative.

Additional Materials:

Estimated Public Reporting Burden.

Assurances—Non-Construction Programs (Standard Form 424B).

Certification regarding Debarment, Suspension, and Other Responsibility Matters: Primary Covered Transactions (ED Form GCS–008) and instructions.

Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED Form GCS–009) and instructions. (Note: ED Form GCS–009 is intended for the use of grantees and

should not be transmitted to the Department.)

Certification Regarding Drug-Free Workplace Requirements: Grantees Other than Individuals (ED 80–0004).

Certification Regarding Drug-Free Workplace Requirements: Grantees Who Are Individuals (ED 80–0005).

Certification Regarding Lobbying for Grants and Cooperative Agreements (ED 80–0008). (Note: This form is required if requesting, making, or entering into a grant or cooperative agreement for more than $100,000.)

Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and instructions; and Disclosure of Lobbying Activities Continuation Sheet (Standard Form LLL–A).

An applicant may submit information on a photostatic copy of the application and budget forms, the assurances, and the certifications. However, the application form, the assurances, and the certifications must each have an *original signature.* No grant may be awarded unless a complete application form has been received.

FOR FURTHER INFORMATION CONTACT: Mrs. May J. Weaver, Chief, Special Services Branch, Division of Student Services, Office of Postsecondary Education, Department of Education, Room 3066, ROB–3, 400 Maryland Avenue, SW., Washington, DC. 20202–5249. Telephone (202) 732–4804.

Authority: 20 U.S.C. 1070d–1b.

Dated: April 30, 1990.

Leonard L. Haynes III,

Assistant Secretary for Postsecondary Education.

BILLING CODE 4000–01–M

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED		Applicant Identifier
3. DATE RECEIVED BY STATE		State Application Identifier
4. DATE RECEIVED BY FEDERAL AGENCY		Federal Identifier

1. TYPE OF SUBMISSION:

Application	Preapplication
☐ Construction	☐ Construction
☒ Non-Construction	☐ Non-Construction

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address (*give city, county, state, and zip code*):	Name and telephone number of the person to be contacted on matters involving this application (*give area code*)

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ — ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (*enter appropriate letter in box*) ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify): _____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (*specify*):

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 8 4 • 2 1 7

TITLE: Ronald E. McNair Post-Baccalaureate Achievement Program

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (*cities, counties, states, etc.*):

13. PROPOSED PROJECT:		14. CONGRESSIONAL DISTRICTS OF:	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:

a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item: Entry:

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
   - "New" means a new assistance award.
   - "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
   - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

Item: Entry:

12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

SUPPLEMENTAL INSTRUCTIONS FOR STANDARD FORM 424

Item # 2: If the applicant organization has been assigned an ED entity number consisting of the IRS employer identification number prefixed by "1" and suffixed by a two-digit number, enter the full ED entity number in the space entitled "Applicant Identifier."

Item #16: Applicants are required to contact the State Single Point of Contact for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process. Applicants must complete either Item 16a or 16b to indicate whether or not the application is subject to State review.

OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

SECTION A – BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B – BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7. Program Income	$	$	$	$	$

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Standard Form 424A (4-88)
Prescribed by OMB Circular A-102

SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. NonFederal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS (sum of lines 16 -19)	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges:
23. Remarks	

SF 424A (4-88) Page 2
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INSTRUCTIONS FOR THE SF-424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A,B,C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A,B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary
Lines 1-4, Columns (a) and (b)

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in *Column* (a) and the respective catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1-4, Columns (c) through (g.)

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

Lines 1-4, Columns (c) through (g.) (continued)

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5 — Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a-i — Show the totals of Lines 6a to 6h in each column.

Line 6j – Show the amount of indirect cost.

Line 6k – Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

INSTRUCTIONS FOR THE SF-424A *(continued)*

Line 7 – Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal-Resources

Lines 8-11 – Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a) – Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b) – Enter the contribution to be made by the applicant.

Column (c) – Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d) – Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e) – Enter totals of Columns (b), (c), and (d).

Line 12 — Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13 – Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14 – Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15 – Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16 - 19 – Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20 – Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21 – Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22 – Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23 – Provide any other explanations or comments deemed necessary.

BILLING CODE 4000-01-C

Part IV

Assurances—Ronald E. McNair Post-Baccalaureate Achievement Program

As the duly authorized representative of the applicant. I certify that the applicant will comply with the statutory requirements that:

1. Not less than two-thirds of the individuals participating in the project proposed to be carried out under this application be low-income individuals who are first-generation college students.

2. The remaining persons participating in the project proposed to be carried out be from a group that is underrepresented in graduate education;

3. Participants be enrolled in a degree program at an eligible institution in accordance with the provisions of Section 487, P.L. 89–329, as amended; and

4. Participants in summer research internships, if any, have completed their sophomore year in post-secondary education.

Signature of Authorized Certifying Official

Title

Applicant Organization

Date Submitted

1–A "low-income individual" means an individual whose family's taxable income did not exceed 150 percent of the poverty level in the calendar year preceding the year in which the individual participated in the project.

2–A "first generation college student" means an individual both of whose parents did not complete a baccalaureate degree; or in the case of any individual who regularly resided with and received support from only one parent, an individual whose only such parent did not complete a baccalaureate degree.

Estimated Public Reporting Burden

Under terms of the Paperwork Reduction Act of 1980, as amended, and the regulations implementing that Act, the Department of Education invites comment on the public reporting burden in this collection of information. Public reporting burden for this collection of information is estimated to average 16 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. You may send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202–4651; and to the Office of Management and Budget, Paperwork Reduction Project 1840–0619, Washington, DC 20503.

(Information collection approved under OMB control number 1840–0619. Expiration date: 12/31/91.)

BILLING CODE 4000–01–M

OMB Approval No. 0348-0040

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C.§§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

Standard Form 424B (4-88)
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10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program andto purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

Certification Regarding Debarment, Suspension, and Other Responsibility Matters Primary Covered Transactions

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, Section 85.510, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211). Copies of the regulations may be obtained by contacting the U.S. Department of Education, Grants and Contracts Service, 400 Maryland Avenue, S.W. (Room 3633 GSA Regional Office Building No. 3), Washington, D.C. 20202-4725, telephone (202) 732-2505.

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Organization Name PR/Award Number or Project Name

Name and Title of Authorized Representative

Signature Date

ED Form GCS-008, (REV.12/88)

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, Section 85.510, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211). Copies of the regulations may be obtained by contacting the person to which this proposal is submitted.

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Organization Name PR/Award Number or Project Name

Name and Title of Authorized Representative

Signature Date

ED Form GCS-009, (REV. 12/88)

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Drug-Free Workplace Requirements Grantees Other Than Individuals

This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988, 34 CFR Part 85, Subpart F. The regulations, published in the January 31, 1989 Federal Register, require certification by grantees, prior to award, that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the agency determines to award the grant. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or governmentwide suspension or debarment (see 34 CFR Part 85, Sections 85.615 and 85.620).

The grantee certifies that it will provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing a drug-free awareness program to inform employees about--

(1) The dangers of drug abuse in the workplace;
(2) The grantee's policy of maintaining a drug-free workplace;
(3) Any available drug counseling, rehabilitation, and employee assistance programs; and
(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will--

(1) Abide by the terms of the statement; and
(2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;

(e) Notifying the agency within ten days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction;

(f) Taking one of the following actions, within 30 days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted--

(1) Taking appropriate personnel action against such an employee, up to and including termination; or
(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

Organization Name _____ PR/Award Number or Project Name _____

Name and Title of Authorized Representative _____

Signature _____ Date _____

ED 80-0008

Certification Regarding Lobbying For Grants and Cooperative Agreements

Submission of this certification is required by Section 1352, Title 31 of the U.S. Code and is a prerequisite for making or entering into a grant or cooperative agreement over $100,000.

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, 'Disclosure Form to Report Lobbying,' in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact on which the Department of Education relied when it made or entered into this grant or cooperative agreement. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Organization Name

PR/Award (or Application) Number or Project Name

Name and Title of Authorized Representative

Signature

Date

ED 80-0008

12/89

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:
☐ a. contract
b. grant
c. cooperative agreement
d. loan
e. loan guarantee
f. loan insurance

2. Status of Federal Action:
☐ a. bid/offer/application
b. initial award
c. post-award

3. Report Type:
☐ a. initial filing
b. material change
For Material Change Only:
year _____ quarter _____
date of last report _____

4. Name and Address of Reporting Entity:
☐ Prime ☐ Subawardee
Tier _____, *if known*:
Congressional District, *if known*:

5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:
Congressional District, *if known*:

6. Federal Department/Agency:

7. Federal Program Name/Description:
CFDA Number, *if applicable*: _____

8. Federal Action Number, *if known*:

9. Award Amount, *if known*:
$

10. a. Name and Address of Lobbying Entity *(if individual, last name, first name, MI)*:

b. Individuals Performing Services *(including address if different from No. 10a)* *(last name, first name, MI)*:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

11. Amount of Payment *(check all that apply)*:
$ _____ ☐ actual ☐ planned

12. Form of Payment *(check all that apply)*:
☐ a. cash
☐ b. in-kind; specify: nature _____
value _____

13. Type of Payment *(check all that apply)*:
☐ a. retainer
☐ b. one-time fee
☐ c. commission
☐ d. contingent fee
☐ e. deferred
☐ f. other; specify: _____

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____
Print Name: _____
Title: _____
Telephone No.: _____ **Date:** _____

Federal Use Only:

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Standard Form - LLL

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.

12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.

13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.

14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.

15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 mintues per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

DISCLOSURE OF LOBBYING ACTIVITIES
CONTINUATION SHEET

Approved by OMB
0348-0046

Reporting Entity: _____ **Page** _____ **of** _____

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Standard Form - LLL-A

[FR Doc. 90-10475 Filed 5-4-90; 8:45 am]
BILLING CODE 4000-01-C

federal register

Monday
May 7, 1990

Part III

United States Information Agency

Department of the Treasury

Customs Service

Determination for Peru's Emergency Request—Sipan; Notice

19 CFR Part 12

Import Restrictions Imposed on Significant Archaeological Artifacts From Peru; Final Rule

UNITED STATES INFORMATION AGENCY

Determination for Peru's Emergency Request—Sipan

Convention on Cultural Property Implementation Act (Title III, Public Law 97–446), as amended; Import Restrictions on Archaeological Material from Peru.

Pursuant to the authority vested in me under Executive Order 12555, and Delegation Order No. 86–3 of March 18, 1986 (51 FR 10137).

Findings

I hereby find:

(1) That the Government of Peru made a request to the United States Government of the type and in the form required by section 303(a) of the Act, 19 U.S.C. 2602(a), on June 15, 1989, seeking emergency U.S. import restrictions and has supplied information which supports determinations that emergency conditions exist with respect to archaeological material from the Sipan Archaeological Region, which material was identified as comprising part of Peru's cultural patrimony pillaged, or in danger of being pillaged, in crisis proportions;

(2) That pursuant to section 303(f)(1), 19 U.S.C. 2602(f)(1), notification of this request was published in the **Federal Register** on June 23, 1989, 54 FR 26462;

(3) That pursuant to section 303(f)(2), 19 U.S.C. 2602(f)(2), this request was submitted to the Cultural Property Advisory Committee on June 23, 1989, for investigation, review and recommendation;

(4) That on September 20, 1989, the Committee transmitted to me its Report within the statutory ninety (90) day period prescribed in section 304(c)(2), 19 U.S.C. 2603(c)(2);

(5) That the Committee, in accordance with the requirements of section 306(f), 19 U.S.C. 2605(f), has thoroughly considered this request and has investigated the situation described in it;

(6) That the Committee recommends that emergency import restrictions be imposed on archaeological material from the Sipan Archaeological Region;

(7) That the archaeological material involved here satisfies the definition in section 302(2)(i), 19 U.S.C. 2601(2)(i), in that it is of cultural significance, at least two hundred and fifty years old, and normally discovered as a result of scientific excavation, clandestine or accidental digging, or exploration on land or underwater;

(8) That the Sipan Archaeological Region is defined as an area in the center of Peru's Lambayeque Valley covering an area of approximately 35 to 40 square kilometers. Generally, to the south it borders Pampas de Cayalti; to the north, the Lambayeque River; to the west, Saltur Peak; and to the east, it borders pampas de Collique;

(9) That archaeological material is identifiable as coming from the Sipan Archaeological Region, that this region is recognized to be of high cultural significance, and that this region is in jeopardy from pillage and dispersal, which is, or threatens to be, of crisis proportions;

(10) That archaeological mateial from the Sipan Archaeological Region is part of the remains of a particular culture (i.e., the Moche culture) and that the record of the Moche culture found in the Sipan Archaeological Region is in jeopardy from pillage and dispersal which is, or threatens to be, of crisis proportions;

(11) That the imposition of emergency import restrictions on a temporary basis would, in whole or in part, reduce the incentive for pillage and dispersal described in Findings (9) and (10) above.

Determinations

Now, therefore, in accordance with the aforementioned authority vested in me, I hereby determine:

(1) That, pursuant to section 304(b) of the Act, 19 U.S.C. 2603(b), an emergency condition exists with respect to archaeological material in the Sipan Archaeological Region.

(2) That, pursuant to section 304(b) of the Act, 19 U.S.C. 2603(b), an emergency condition exists also with respect to the archaeological material from the Sipan Archaeological Region as part of the remains of the Moche culture.

(3) That the import restrictions set forth in section 307, 19 U.S.C. 2606, be applied to the archaeological materials (a) from the Sipan Archaeological Region, and (b) from the Sipan Archaeological Region and forming part of the remains of the Moche culture.

Dated: January 30, 1990.

Eugene P. Kopp,

Deputy Director.

[FR Doc. 90–10398 Filed 5–3–90; 8:45 am]

BILLING CODE 8230–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 12

[T.D. 90-37]

Import Restrictions Imposed on Significant Archaeological Artifacts From Peru

AGENCY: U.S. Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to reflect the imposition of emergency import restrictions on culturally significant archaeological artifacts from the Sipan Region of Peru. These restrictions have been imposed pursuant to a determination of the United States Information Agency issued under authority of the Convention on Cultural Property Implementation Act in accordance with the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.

EFFECTIVE DATE: May 7, 1990.

FOR FURTHER INFORMATION CONTACT:

Legal Aspects: Samuel Orandle, Commercial Rulings Division (202) 566-5765.

Operational Aspects: Pamela Wenner, Trade Operations (202) 535-4931. Both are at U.S. Customs, Washington, DC 20229.

SUPPLEMENTARY INFORMATION:

Background

The value of cultural property, whether archaeological or ethnological in nature, is immeasurable. Such items often constitute the very essence of a society and convey important information concerning a people's origin, history, and traditional setting. The importance and popularity of such items regrettably make them targets of theft, encourages clandestine looting of archaeological sites, and results in their illegal export and import.

The U.S. shares in the international concern for the need to protect endangered cultural property. The appearance in the U.S. of stolen or illegally exported artifacts from other countries where there has been pillage has, on occasion, strained our foreign and cultural relations. This situation, combined with the concerns of museum, archaeological, and scholarly communities, was recognized by the President and Congress. It became apparent that it was in the national interest for the U.S. to join with other countries to control illegal trafficking of such articles in international commerce.

The U.S. joined international efforts and actively participated in deliberations resulting in the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (823 U.N.T.S. 231 (1972)). U.S. acceptance of the 1970 UNESCO Convention was codified into U.S. law as the "Convention on Cultural Property Implementation Act" (Pub. L. 97-446, 19 U.S.C. 2601 *et seq.*). The spirit of the Convention was enacted into law to promote U.S. leadership in achieving greater international cooperation towards preserving cultural treasures that are of importance not only to the nations whence they originate, but also to greater international understanding of mankind's common heritage. The U.S. is, to date, the only major art importing country to implement the 1970 Convention.

It was with these goals in mind that Customs issued interim regulations to carry out the provisions of the Act. The interim regulations, which were set forth in § 12.104, Customs Regulations (19 CFR 12.104), were published in the Federal Register as T.D. 85-107 on June 25, 1985 (50 FR 26193), and took effect immediately. After consideration of comments received on the interim regulations, final regulations were issed as T.D. 86-52, published in the Federal Register on February 27, 1986 (51 FR 6905), and took effect on March 31, 1986. Those regulations were again amended on January 19, 1990 (55 FR 1809), by T.D. 90-3 which provided members of the public a listing of all T.D.s which had been issued imposing import restrictions under the Act. Both the country where the article originates and a highlight of the type of article covered appear next to the T.D.

This document amends the regulations again by adding additional cultural property to the list of articles for which import restrictions exist.

Peru

Under Section 303(a)(3) of the Cultural Property Implementation Act (19 U.S.C. 2602(a)(3)), the Government of Peru, a State Party to the 1970 UNESCO Convention, asked the U.S. Government to impose emergency import restrictions on certain archaeological materials from the Sipan Archaeological Region of Peru, which material was identified as comprising part of Peru's cultural patrimony pillaged, or in danger of being pillaged, in crisis proportions. Notice of receipt of this request was published by the U.S. Information Agency (USIA) in the Federal Register on June 23, 1989 (54 FR 26462).

On June 23, 1989, the request was referred to the Cultural Property Advisory Committee, which conducted a review and investigation, and submitted its report in accordance with the provisions of 19 U.S.C. 2605(f) to the Deputy Director, USIA, on September 20, 1989. The Committee found the situation in Peru to be an emergency, in accordance with the provisions of 19 U.S.C. 2603(a) (2) and (3), and recommended that emergency import restrictions be imposed on archaeological material from the Sipan Archaeological Region. The Deputy Director, pursuant to the authority vested in him under Executive Order 12555 and USIA Delegation Order 86-3, considered the Committee's recommendations and made the determination that emergency import restrictions be applied. (See this issue of the Federal Register.)

The Commissioner of Customs, in consultation with the Deputy Director of the USIA, has drawn up a list of types of covered archaeological material from the Sipan Archaeological Region of Peru. The materials on the list are subject to § 12.104a(b), Customs Regulations. As provided in 19 U.S.C. 2601 *et seq.*, and § 12.104a(b), Customs Regulations, listed material from this area may not be imported into the U.S. unless accompanied by documentation certifying that the material left Peru legally and not in violation of the laws of Peru.

In the event an importer cannot produce the certificate, documentation, or evidence required by § 12.104c, Customs Regulations, at the time of making entry, § 12.104d provides that the district director shall take custody of the material until the certificate, documentation, or evidence is presented. Section 12.104e provides that if the importer states in writing that he will not attempt to secure the required certificate, documentation, or evidence, or the importer does not present the required certificate, documentation, or evidence to Customs within the time provided, the material shall be seized and summarily forfeited to the U.S. in accordance with the provisions of Part 162, Customs Regulations (19 CFR Part 162).

Archaeological Material From the Sipan Archaeological Region Forming Part of the Remains of the Moche Culture

Artifacts from the Sipan Region are known to fall into the categories listed

below. As this region is further excavated, it is expected that other types of material will be discovered.

I. Metal

(Dimensions are for height)

A. Gold
1. Small masks, human or feline, some with rattle inside, 2–13 cm.
2. Disk-shaped ear ornaments with beaded edges.
(a) With figural inlay of turquoise or shell.
(b) Simple, nonfigurative, sometimes with danglers.
3. Nose ornaments, usually crescent-shaped, some with metal danglers.
4. Necklaces.
(a) Peanut-effigy necklace.
(b) Peanut-effigy beads, 5–13 cm.
(c) Round beads, 1–3 cm.
5. Crowns or diadems.
6. Heads of scepters and/or sacrificial knives, with scenes.
7. Small disks, 1.5–5 cm.
8. Rattles, semicircular or trapezoidal, usually with scenes; attached to copper tool.
9. Axe-shaped objects with figures, often with rattle, 20–45 cm.
10. Knives, or *tumis*, simple or figural, 8–15 cm.
11. Human figures, 10–30 cm.
12. Necklace pendants of various forms, including small spiders.
13. Human and animals heads, with turquoise and/or shell and/or metal danglers, probably headdress ornaments.
14. Bracelets, or anklets, single sheet with designs.
15. Small effigy idols, with hooks for attachment.
16. Funerary masks, made from a single sheet.
17. Flutes.
18. Headdress ornaments, crescent-shaped, open with figures attached.
19. Pendants or attachments with "sacrificer" figure and beaded edge.

B. Gilded Copper
1. Small masks, feline, 5–16 cm.
2. Nose ornaments, usually crescent-shaped, some with metal danglers.
3. Rattles, semicircular, usually with figures.
4. Axe-shaped objects, with figures, often with rattle, 20–45 cm.
5. Scepters, usually geometric, 5–20 cm.
6. Crowns or diadems with hands and a central figure, 20–45 cm.
7. Human figures, 10–30 cm.
8. Necklace pendants, various.
9. Human and animal heads, with turquoise and/or shell and/or metal danglers, probably headdress ornaments.
10. Small effigy idols, with hook for attachment.
11. Funerary masks, single sheet.
12. Owl heads.
13. Pendants or attachments with "sacrificer" figure and beaded edge.

C. Silver
1. Small masks human.
2. Nose ornaments, usually crescent-shaped, some with metal danglers.
3. Necklaces, peanut and plain beads.
4. Heads of scepters or sacrificial knives, with scenes.
5. Rattles, semicircular, usually with figures.
6. Axe-shaped objects, with figures, often with rattle, 20–45 cm.
7. Knives, or *tumis*, simple or figural, 8–15 cm.
8. Scepters, usually geometric, 5–20 cm.
9. Human figures, 10–30 cm.
10. Necklace pendants.
11. Human and animal heads, with turquoise and/or shell and/or metal danglers, probably headdress ornaments.
12. Bracelets or anklets, single sheet.
13. Small effigy idols, with hook for attachment.
14. Funerary masks.

D. Copper
1. Masks.
2. Knives, or *tumis*, simple or with figure, 8–15 cm.
3. Scepters, usually geometric, 5–20 cm.
4. Clubs.
5. Disks.
6. Owl Heads.
7. Tweezers.
8. Lance Tips.
9. Tools with elaborate scenes on top.

II. Ceramics

A. Stirrup-spout Vessels
1. Seated figures with headdress.
2. Owls.
3. Reptiles.

B. Open-spout Vessels
1. Seated Figures.
2. Prisoners.
3. Warriors.
4. Animals.

III. Miscellaneous

A. Textile fragments (often with copper platelets).
B. Copper platelets and textile fragments.
C. Feathers, remains of feathered ornaments.
D. Beads of turquoise and shell.
E. Fragments of shell (Spondylus) ornaments.

Inapplicability of Notice and Delayed Effective Date

Because this amendment imposes emergency import restrictions on cultural property which is currently subject to pillage and looting, pursuant to § 553(b)(B) of the Administrative Procedure Act, no notice of proposed rulemaking or public procedure is necessary. For the same reason, a delayed effective date is both impracticable and contrary to the public interest.

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that, if adopted, the amendment will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Drafting Information

The principal author of this document was Peter T. Lynch, Regulations and Disclosure Law Branch, Office of Rules and Regulations, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 12

Customs duties and inspections, Imports, Cultural property.

Amendment to the Regulations

Part 12 of the Customs Regulations (19 CFR part 12) is amended as set forth below:

PART 12—[AMENDED]

1. The general and specific authority citation for part 12 continues to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1202 (General note 8, Harmonized Tariff Schedule of the United States (HTSUS)), 1624.

* * * * *

Sections 12.104–12.104i also issued under 19 U.S.C. 2612.

§ 12.104g [Amended]

2. In § 12.104g, the list of emergency actions imposing import restrictions on described articles of cultural property is amended by adding "Peru" under the column headed "State Party", the description "Archaeological material from the Sipan Archaeological Region forming part of the remains of the Moche culture" under the column headed "Cultural Property", and "TD 90–37" on the same line as "Peru", in the column headed "T.D. No."

Carol Hallett,
Commissioner of Customs.

Approved: April 9, 1990.

John P. Simpson,
Acting Assistant Secretary of the Treasury.

[FR Doc. 90–10140 Filed 5–4–90; 8:45 am]
BILLING CODE 4820–02–M

federal register

Monday
May 7, 1990

Part IV

Environmental Protection Agency

LTV Steel Company, Continued Injection of Waste Subject to Land Disposal Restrictions of the Hazardous and Solid Waste Amendments of 1984; Notice of Intent To Grant an Exemption

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3763-8]

Proposing the Granting of an Exemption to LTV Steel Company, Hennepin Works for the Continued Injection of Hazardous Waste Subject to the Land Disposal Restrictions of the Hazardous and Solid Waste Amendments of 1984

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to grant an exemption to the LTV Steel Company, Hennepin Works of Hennepin, Illinois for the continued injection of waste pickle liquor.

SUMMARY: The United States Environmental Protection Agency (USEPA or Agency) today is proposing to grant an exemption from the ban on disposal of hazardous wastes through injection wells to the LTV Steel Company, Hennepin Works (LTV), of Hennepin, Illinois. LTV may continue to inject Resource Conservation and Recovery Act (RCRA) regulated hazardous waste Code K062 (Waste Pickle Liquor) in its Waste Pickle Liquor Well No. 1 after the prohibition date of August 8, 1990, if the exemption is granted. LTV submitted a petition to the EPA under 40 CFR part 148, which allows any person to petition the Administrator to determine whether its continued injection of certain hazardous wastes is harmful to human health or the environment. After a comprehensive review, the EPA has determined that there is a reasonable degree of certainty that LTV's injected waste will not migrate out of the injection zone over the next 10,000 years.

DATES: The USEPA is requesting public comments on today's proposed decision. Comments will be accepted until June 15, 1990. Comments postmarked after the close of the comment period will be stamped "Late". A public hearing will be scheduled for this proposed action and notice will be given in a local paper and to all people on a mailing list developed by the USEPA and the Illinois EPA. If you wish to be notified of the date and location of the public hearing, please contact the persons listed below.

ADDRESSES: Submit written comments, by mail, to: United States Environmental Protection Agency Region V, Underground Injection Control Section (5WD-TUB-9), 230 South Dearborn Street, Chicago, Illinois 60604, Attn: Edward P. Watters, Chief.

FOR FURTHER INFORMATION CONTACT: Allen Melcer or George Hudak, Lead Petition Reviewers, UIC Section, Water Division, 230 S. Dearborn, Chicago, Illinois 60604, Office Telephone Numbers: (312) 886-1498 or (312) 353-4142.

SUPPLEMENTARY INFORMATION:

I. Background

A. Authority

The Hazardous and Solid Waste Amendments of 1984 (HSWA), enacted on November 8, 1984, impose substantial new responsibilities on those who handle hazardous waste. The amendments prohibit the continued land disposal of untreated hazardous waste beyond specified dates, unless the Administrator determines that the prohibition is not required in order to protect human health and the environment for as long as the waste remains hazardous (Sections 3004 (d)(1), (e)(1), (f)(2), and (g)(5) of RCRA). The statute specifically defined land disposal to include any placement of hazardous waste in an injection well (Section 3004(k) of RCRA). After the effective date of prohibition, hazardous waste can be injected only under two circumstances:

(1) When the waste has been treated in accordance with the requirements of 40 CFR Part 268 pursuant to Section 3004(m) of RCRA, (the EPA has adopted the same treatment standards for injected wastes in 40 CFR Part 148, Subpart B); or

(2) When the owner/operator has demonstrated that there will be no migration of hazardous constituents from the injection zone for as long as the waste remains hazardous. Applicants seeking an exemption from the ban must demonstrate either:

(a) That the waste undergoes a chemical transformation so as to no longer pose a threat to human life and the environment; or

(b) That fluid flow is such that injected fluids would not migrate vertically upward out of the injection zone or to a point of discharge in a period of 10,000 years (40 CFR 148.20(a)).

The USEPA promulgated final regulations on July 26, 1988, (53 FR 28118) which govern the submission of petitions for exemption from the injection prohibition (40 CFR part 148). A timeframe of 10,000 years was specified for the demonstration, not because migration after that time is of no concern, but because a demonstration which can meet a 10,000 year timeframe will likely provide containment for a substantially longer time period, and also allow time for geochemical transformations which would render the waste nonhazardous or immobile. The Agency's standard thus does not imply that leakage will occur at some time after 10,000 years; rather, it is a showing that leakage will not occur within that timeframe.

B. Facility Operation and Process

The LTV Facility in Hennepin, Illinois, is a steel finishing plant which produces finished steel for industrial uses. The facility injects one liquid hazardous waste, Waste Pickle Liquor, which is produced as a by-product of steel pickling and galvanizing operations. This waste is injected into one on-site Class I hazardous waste injection well, Well No. 1, completed in the Mt. Simon Sandstone. The injection well was drilled and completed in 1966. The total volume of fluid injected is 146,977,228 gallons as of February, 1988, for a yearly average of 6.6 million gallons.

C. Waste Minimization

Section 3002(b) of RCRA requires that generators of hazardous waste have "a program in place to reduce the volume or quantity and toxicity of such waste to the degree determined by the generator to be economically practicable". LTV has implemented a waste minimization program which includes the installation of a counterflow strip-acid bath contact and a series of wringer and wiper rolls. These measures inhibit dilution of pickle-bath acid concentration and thereby reduce the volume of waste generated. The use of automated equipment to more closely control process parameters has also reduced the volume of waste generated. These devices measuring acid concentration, bath/rinsewater temperatures, and steam pressure/consumption have resulted in more efficient process operation and associated reduction in the volume of waste generated.

D. Submission

On September 29, 1988, LTV submitted a petition for exemption from the land disposal restrictions on hazardous waste injection under the HSWA Amendments to RCRA pursuant to the regulations set forth at 40 CFR part 148. This submission was reviewed and revision documents are dated June 23, 1989, January 15, 1990, and March 15, 1990. Several supplemental submissions were made during this period and thereafter to resolve minor deficiencies. The total submission was reviewed by staff at the USEPA, the Illinois EPA, and, in part, by the Illinois State Geological Survey and the Illinois State Water Survey as well as private consultants hired by the USEPA to assist in its review.

II. Basis for Determination

The draft decision to approve LTV's petition for continued injection was reached after a careful consideration of the factors involved in an environmentally protective injection operation. These factors include: the type of waste injected, well construction, well operation, proof of the mechanical integrity of the well, properties of the injection and confining zones, including their ability to receive and confine the waste, a detailed search for any abandoned boreholes which may serve as a conduit for upward waste migration, and comprehensive modeling of the existing waste plume to predict pressure buildup and future movement of the plume, both vertically and laterally, for the next 10,000 years. In order to be conservative, the values used for input into the models were consistently chosen so as to over-predict the pressure buildup and waste plume movement caused by the injection activity. The following sections describe each of these factors in more detail.

A. Waste Description and Analysis

The waste being injected is Waste Pickle Liquor and is defined under 40 CFR part 261 as Waste Code K062. This waste is listed as a hazardous waste because it is corrosive (i.e., it has a pH less than or equal to 2.0) and because of its concentration of chromium (i.e., above 0.32 milligrams per liter mg/1) treatment standard). The injected waste at LTV has an average pH of less than 0.5 and an average chromium content of approximately 13.7 mg/1.

B. Well Construction and Operation

The LTV injection well was constructed in 1966 with four strings of casing (See figure 1.) Each string is cemented to the surface. Injection takes place through tubing set on a packer at a depth of 3094 feet. Waste within the injection tubing is isolated from the casing by a fluid-filled annulus which is continously monitored, filled with corrosion inhibitor, and maintained at a pressure between 410 and 490 pounds per square inch gauge (psig) at the surface. The monitoring system is designed to trigger alarms and warn an operator to shut off injection if the injection or annulus pressure exceeds the maximum permitted levels, or if the annulus pressure falls below the minimum permitted level.

The average injection rate at LTV has varied from a low of 0 gallons per minute (gpm) to a high of 104 gpm. The average monthly flow rate is 84 gpm. The maximum surface injection pressure is 99 psig with an average of 37 psig. The maximum permitted injection pressure of 110 psig is below the maximum value necessary to initiate or propagate fractures in the injection zone.

C. Mechanical Integrity Test Information

To assure that the waste does not leak prior to reaching the injection zone, mechanical integrity tests (MITS) of the well are required. Section 148.20(a)(2)(iv) requires that satisfactory MITs be performed within one year prior to petition submission and also within one year of USEPAs petition decision. The LTV injection well was tested in November of 1987. The test consisted of a radioactive tracer (RAT) survey and an annulus pressure test. Mechanical integrity tests were also run in 1988 and, most recently, on October 17, 1989, consisting of an annulus pressure test, a RAT survey, and a temperature log. Results of these tests demonstrated that the well has mechanical integrity and confirmed the positive results recorded an continous monitoring equipment. From both a construction and operation standpoint, the LTV injection well ensures, with a reasonable degree of certainty, transmission of the injected fluid to the injection zone without leakage.

D. Site Description

As part of the "no migration" demonstration under part 148, subpart C, any Class I hazardous waste injection well petitioner must identify the strata within the injection zone which will confine fluid movement above the injection interval and the strata which act as a confining zone. The injection zone is divided into two parts; the injection interval and the containment interval. The injection interval is the interval in which waste is directly emplaced. The containment interval is the interval which will contain the waste beyond 10,000 years. The confining zone is a formation capable of preventing fluid movement above the injection zone. This section describes the properties of each interval with emphasis on those characteristics which make it a good receiving or confining zone.

1. Regional Geology

The LTV facility is located in Putnam County, near Hennepin, Illinois. It is situated on the northern edge of the Illinois Basin, and is underlain by a sedimentary rock sequence approximately 4850 feet thick consisting of carbonates, sandstones, siltstones and shales. These units dip to the southeast at about 20 feet per mile.

As shown in Figure 1, the lowermost underground source of drinking water (USDW), defined as water with less than 10,000 mg/1 total dissolved solids, is the Franconia Formation, the base of which is located at a depth of approximately 2535 feet. The top of the injection zone is the Lombard Member of the Eau Claire Formation at a depth of 2902 feet. There is thus about 367 feet of separation between the top of the injection zone and the base of the lowermost USDW.

The LTV facility is located in an area of low seismic risk. Earthquakes that may cause damage in the future are most likely to be centered in seismically active areas to the south and southwest, namely, the New Madrid and Wabash Valley fault zones located in Arkansas, Tennessee, Kentucky, Missouri, southern Indiana and southern Illinois. Approximately twelve earthquakes have been recorded within a fifty kilometer radius of the LTV facility. All recorded earthquakes have been of low intensity, ranging from below scale to VI on the Modified Mercalli Scale. Damage to disposal well systems or alteration of the hydrogeologic properties of the injection or confining zones would not be expected to occur from intensity VI earthquakes. For example, damage to underground pipes would be expected to occur only for intensity levels of IX or greater. Seismic activity induced by injection activity is also highly unlikely due to the absence of faults at the site.

2. Injection Zone Description

The injection zone must have sufficient permeability, porosity, thickness and areal extent to prevent migration of hazardous fluids out of this zone. The injection zone at LTV consists of the entire thickness (1930 feet) of the Mt. Simon Sandstone and the lower Eau Claire Formation at a depth of 2902 to 4868 feet below surface (Figure 1). These formations extend over much of the midwestern United States and reach the surface approximately 150 miles away, in Wisconsin. At the LTV site, both the Mt. Simon Sandstone and the Eau Claire Formation are laterally extensive and undisturbed by faults or significant fractures, as documented by a suite of openhole logs and geologic literature.

At LTV, the injection interval, or the interval into which waste is directly emplaced, is the Mt. Simon Sandstone, located at a depth of 3109 to 4868 feet below ground surface, with a thickness of 1759 feet. Analysis of well logs and cores from the LTV site shows that the rock unit through this interval is a moderately well sorted, fine-grained to medium-grained sandstone with minor siltstone. Both the permeability and porosity of the injection interval are

suitable for waste injection. Core analyses show that the injection interval has a permeability of between approximately 1 and 500 millidarcies, and an average porosity of about 15 percent. The major constituents of the injection interval are resistant to chemical degradation by the waste, and few, if any, compatibility problems are expected.

The upper injection zone, or "containment interval", is the Elmhurst and Lombard Members of the Eau Claire Formation, consisting of interbedded dolomites, dolomitic sandstones, siltstones, and shales. The containment interval consists of approximately 20 feet of shale at the base of the Elmhurst Member and becomes sandier with shale interbeds towards the top. The total shale thickness of the containment interval is 70 feet.

The lowermost portion of the Eau Claire Formation, the Elmhurst Sandstone, is a 125 ft. thick white to light gray, fine to coarse-grained, well-rounded and well sorted sandstone with interbedded shale and sand at the base. The sand portions exhibit good lateral permeability and porosity, so that it acts as a "bleed-off" zone to dissipate vertical pressures and divert waste movement laterally. The shale at the base of the Elmhurst Member is approximately 20 feet thick and acts as the first barrier to the vertical flow of injected waste. The low porosity of 8% and permeability of 10^{-5} md of the shale will substantially inhibit the movement of waste through this zone. The total shale thickness of the Elmhurst Member is 44 feet.

The upper protion of the containment interval consists of the 86 foot thick Lombard Member. This interval consists of 26 feet of sand, 26 feet of shale with a vertical permeability of 4×10^{-4} millidarcies, estimated from geophysical logs, that will serve to further confine the waste, and 34 feet of shaley sand with a vertical permeability of 1 millidarcy that will act as a bleed-off zone in addition to that in the Elmhurst Member.

3. Confining Zone Description

The confining zone must be (1) laterally continuous, (2) free of transecting, transmissive faults and fractures over an area sufficient to prevent fluid movement and (3) of sufficient thickness and possessing lithologic and stress characteristics that inhibit the vertical propagation of fractures. The confining zone for the LTV injection operation is the upper Eau Claire Formation, which is laterally extensive and free of transmissive faults and fractures throughout the area of review. At LTV, it is located at a depth below ground surface between 2705 and 2902 feet and has a thickness of 197 feet (Figure 1). Net shale thickness of the confining zone is at least 130 feet. It is separated from the lowermost USDW by 170 feet of permeable and less permeable strata.

The upper Eau Claire Formation is composed of interbedded fine-grained sandstones, siltstones and shales. Core data demonstrate very low vertical permeability ranging from 1×10^{-3} to 1×10^{-6} millidarcies at this site. The upper Eau Claire Formation would serve as another major hydraulic barrier to vertical movement of injected waste, if it escaped the injection zone. Its location above the higher permeability Elmhurst Member acting as a pressure bleed-off zone, enhances the upper Eau Claire's adequacy as a confining unit. Based on a review of all available information, the Agency has concluded that the upper Eau Claire Formation is an adequate confining zone for LTV's injection operation.

In addition to the confining zone, the Ironton-Galesville Formation, located between the top of the confining zone and the base of the lowermost USDW, provides additional assurance that contaminants will not reach drinking water sources. It is located at a depth below ground surface between 2535 and 2705 feet and has a thickness of 170 feet. The lithology of this sequence consists mostly of white, buff and light gray fine to coarse-grained sandstone, some of which is dolomitic, with thin interbeds of sandy dolomite. LTV will construct a monitoring well to be completed in the Galesville Formation, and will monitor the pressure and take fluid samples from the base of the Galesville to provide assurance that any migration would be detected before reaching USDWs should the confining zone be breached.

4. Area of Review

The Area of Review (AOR) is the area within which the petitioner must identify all wells which penetrate the confining zone and demonstrate that they have been properly completed or plugged. The AOR for Class I hazardous waste injection wells is a 2-mile radius around the well bore, unless a larger area is required based on the calculated cone of influence. The pressure buildup necessary to raise fluid from the injection zone to the base of the lowermost USDW through an abandoned wellbore is calculated to be 81 psig. The modeled pressure buildup caused by LTV's injection activity at the end of the operational life of the well, in the year 2007, will decrease to less than 81 psig within 10,560 feet of the wellbore. Thus, the area of review has been designated to be 2 miles. LTV has performed a well search within a 2.5 mile radius of the injection well, and found that there are no wells that penetrate the confining zone within this area. Therefore, no corrective action under 40 CFR part 146 is needed at this facility for the area of review at this time.

E. Model Demonstration of No Migration

The demonstration of no migration of hazardous constituents from the injection zone at LTV involves the use of a family of predictive mathematical models known as SWIFT II (Sandia Waste-Isolation Flow and Transport Model). This family of models is used to predict the buildup of pressure and the vertical transport of waste from the injection well. Lateral transport of waste is modeled using analytical methods to determine the volumetric area that the plume will occupy. The SWIFT numerical code has been widely used and extensively verified, as reported in various publications. The long history of development and the successful use of SWIFT for sites similar to LTV provide confidence that the model is well validated and is appropriate for use at this site.

1. Model Development and Calibration

The LTV Steel model was developed by incorporating hydrogeological data of the site and surrounding vicinity into a conceptual model. These values were derived from well logs, cores, published literature, and well tests. The model contains 190 stratigraphic layers extending from the lower portion of the Galesville Sandstone to the base of the Mt. Simon Sandstone. A calibration exercise was used to refine estimates of hydrogeologic parameter values for the Mt. Simon Sandstone. For this analysis, it was assumed that the Mt. Simon Sandstone was laterally infinite. A calibration exercise reproduced the pressure responses recorded during two weeks of injection activity occurring on February 9–16, 1986, and September 7–13, 1986, indicating that the parameter values, taken as a group, adequately represent the injection interval. The parameter values for the Mt. Simon Sandstone included a permeability of 60 millidarcies, a porosity range of 0.09 to 0.16 and a skin factor range of 0.0 to 8.7. These estimates are realistic. Reasonably conservative values were chosen for all other parameters used to model injection-induced pressure and waste transport; details of this are discussed below.

Two simulation time periods were considered in the demonstration: an historical and 20-year future operation period and a 10,000 year post-operational period. The waste plume was modeled in two ways: the pressure buildup and plume movement was calculated both laterally within the Mt. Simon Sandstone and vertically into the overlying Eau Claire Formation. The pressure buildup analysis considered injection into the Mt. Simon Sandstone and included 190 layers from the bottom of the Mt. Simon Sandstone to the lower portion of the Galesville Sandstone in the model. The bottom of the Mt. Simon Sandstone was assumed to be impermeable to fluid flow. This is a realistic assumption.

2. Pressure Buildup Analysis

For the operational period, the actual injection volume of 7,762,165 gallons was input for 1987 and the model assumed an increase of 5% per year until 2007. A waste specific gravity of 1.27, a waste viscosity of 1.87 centipoise (cp), and a vertical permeability for the shale at the base of the Eau Claire Formation of 10^{-3} millidarcies, were used to predict vertical pressure buildup in the injection zone. These values conservatively exceed actual conditions. The actual historical average injection rate is approximately 84 gpm, and the actual waste specific gravity is 1.21. The modeled injected volume, based on the escalated injection rates, amounts to 1.8 times the historic volume in the two decades after 1987. The vertical permeability for the shale at the base of the Eau Claire Formation was estimated using geophysical logs and core data from shales within the Eau Claire to be 1×10^{-5} millidarcies. The model used a vertical permeability value of 1×10^{-3} millidarcies to provide additional conservation in the pressure buildup and vertical migration analyses. Thus, the model will over-predict pressure buildup. Modeling predicted that at the end of the 20-year future operational period, the maximum pressure buildup at the wellbore will be not more than 470 psi. That this pressure buildup is not exceeded will be ensured by an injection pressure limitation in LTV's Illinois EPA Class I injection permit. The modeled pressure buildup is greatest near the injection wells and declines to less than 81 psig, the pressure necessary to move fluid upward into the lowermost USDW, at a distance of less than 2 miles. If injection is maintained at or less than the present rate, as expected, then this distance, and the maximum pressure buildup, will be much smaller.

As an additional measure of conservatism and to account for possible future use of the Galesville aquifer, the vertical permeation model included the placement of a water supply well, completed in the Galesville Formation, immediately adjacent to the injection well. The water supply well is modeled to have an active life of 1,000 years and to attain a maximum pressure drawdown of 210 psig. The inclusion of the water supply well in the model is conservative because the drawdown created by pumping the well will decrease the pressure in the Galesville Formation. This, in turn, will create an upward pressure gradient from the injection zone to the Galesville Formation that will increase the total distance of vertical permeation of the waste predicted by the model.

3. Short-Term Vertical Migration

The predicted pressure buildup at the end of the operational period was used as a basis for modeling the vertical migration of waste. Sensitivity analyses were conducted by estimating the ranges of values possible for each parameter and then selecting conservative values. Vertical transport at LTV is most sensitive to injection rate and the vertical permeability of the shale at the base of the Elmhurst Member. Based on an injection rate of 153 gpm and a permeability of 1.0×10^{-3} millidarcies, waste movement due to pressure driven flow during the operational period is estimated at less than 43 feet. More realistic parameter values result in a shorter distance. The 43 foot estimate is reasonably conservative and over-predicts waste transport because (1) it is based on an injection rate of 153 gpm, whereas the actual average injection rate is 84 gpm, (2) a final-to-original concentration ratio of 10^{-4} was used to define the edge of the waste plume, whereas a concentration ratio of about 10^{-2} marks the boundary where constituent concentrations are below health-based limits (based on a maximum contaminant level of 0.1 mg/l for total chromium) and becomes characteristically non-hazardous (pH is greater than 2), (3) the well was modeled to inject continuously, whereas actual injection occurs in pulses that allows the injection pressure buildup to dissipate between injection events, and (4) the Galesville Formation was modeled as containing a water supply well, with an active service life of 1,000 years, that will create an upward pressure gradient predicting vertical permeation of the waste greater than that which is likely to actually occur.

4. Long-Term Vertical Migration

For a short period of time following the cessation of injection, transport due to advection and mechanical dispersion will continue and may produce an estimated additional 10 feet of vertical waste movement. However, during the remainder of the post-operational period, molecular diffusion is the primary transport mechanism for the vertical migration of waste. Geologic literature and log analysis were used to determine a reasonably conservative tortuosity of 0.15 and coefficient of molecular diffusion of 2×10^{-9} square meters per second. Based on these values, and the conservative final-to-original concentration ratio of 10^{-4}, the maximum vertical transport of the waste front during a 10,000 year post-operational period is 79 feet. At this distance, the concentration of all hazardous constituents will be two orders of magnitude less than health-based limits. Therefore, the total vertical migration at the LTV site will be less than 132 feet above the injection interval. Waste will be contained within the 66 foot thick sandy shale portion of the Elmhurst Member during the operational period and within the Lombard Member of the Eau Claire Formation during the 10,000 year post-operational period.

5. Short-Term Lateral Migration

The distance of lateral migration of waste during the operational period was calculated by accounting for volumetric displacement due to the injected waste. The waste plume is assumed to migrate laterally within a 114 foot thick interval having a porosity of 0.15. The effective thickness was determined from a Temperature Survey and porosity was determined from core and log analyses of the LTV well. The estimate is realistic for porosity and conservative for effective thickness. Model results indicate that the waste will migrate laterally approximately 2100 feet from the well during the 20-year operational period. Hydrodynamic dispersion, based on literature values of dispersivity of 20 feet and a diffusion coefficient of 2×10^{-9} square meters per second, will increase this distance to 3200 feet.

6. Long-Term Lateral Migration

During the 10,000-year post-operational period, the waste plume will migrate due to the natural flow of groundwater in the Mt. Simon Sandstone and due to hydrodynamic dispersion. A groundwater flow velocity in the Mt. Simon Sandstone of 0.415 feet per year, based on published literature estimates, would result in an additional drift of the waste plume of 4150 feet in 10,000 years. Hydrodynamic dispersion will result in, at most, an additional

migration of 5950 feet in 10,000 years, based on a dispersivity of 20 feet and a diffusion coefficient of 2×10^{-9} square meters per second, and a waste plume boundary concentration to initial concentration ratio of 10^{-2}. Beyond this waste plume boundary, all hazardous constituents will be below health-based limits and the waste will also not have hazardous characteristics, such as corrosivity. Therefore, using reasonably conservative values, the maximum predicted lateral migration of waste at the LTV site is 13,300 feet, or about 2.5 miles, in 10,000 years.

Therefore, LTV has demonstrated, to a reasonable degree of certainty, that hazardous constituents will not migrate vertically more than 132 feet nor laterally more than 13,300 feet, in a 10,000 year period. Hazardous constituents will not migrate vertically out of the injection zone nor laterally to a point of discharge, within this time period.

F. Quality Assurance and Quality Control

LTV and its consultants have demonstrated that adequate quality assurance and quality control plans were followed in preparing the petition. LTV has followed appropriate protocol for locating records for penetrations in the Area of Review, for collection and analyses of geologic and hydrogeologic data, for waste characterization, and for all tasks associated with the modeling domonstration.

III. Conditions of Petition Approval

As a condition of granting this proposed exemption from the ban on injection of waste pickle liquor (K062), the EPA requires that the following conditions be met by LTV:

(1) The monthly average injection rate must not exceed 153 gallons per minute, consistent with well design capacity;

(2) Injection shall occur only into the Mt. Simon Sandstone;

(3) The petitioner shall comply with the Ground Water Monitoring Plan found in the administrative record for this draft decision.

A detailed drilling, testing, and operational plan for the monitoring well(s) shall be submitted to the Director within 60 days of a final exemption pursuant to 40 CFR part 148, if granted. This detailed plan must specify monitoring well location, implementation schedule, type of water level monitoring device, frequency of sampling, and the parameters to be sampled, in addition to drilling and testing details. Approval for the drilling, testing, and operational plan must be obtained from the Director before implementation. Failure to submit an approvable plan within 60 days after the plan is required to be submitted shall be deemed cause for revoking approval of the final exemption. Groundwater monitoring must be fully operational within 6 months of EPA approval of the detailed plan; and

(4) The petitioner shall be in full compliance with all requirements set forth in the Underground Injection Control permit issued by Illinois EPA.

The above conditions are being incorporated into the existing UIC permit for the well by permit modification.

Dated: April 26, 1990.

Dale S. Bryson,

Acting Director, Water Division, Region V, U.S. Environmental Protection Agency.

BILLING CODE 6560-50-M

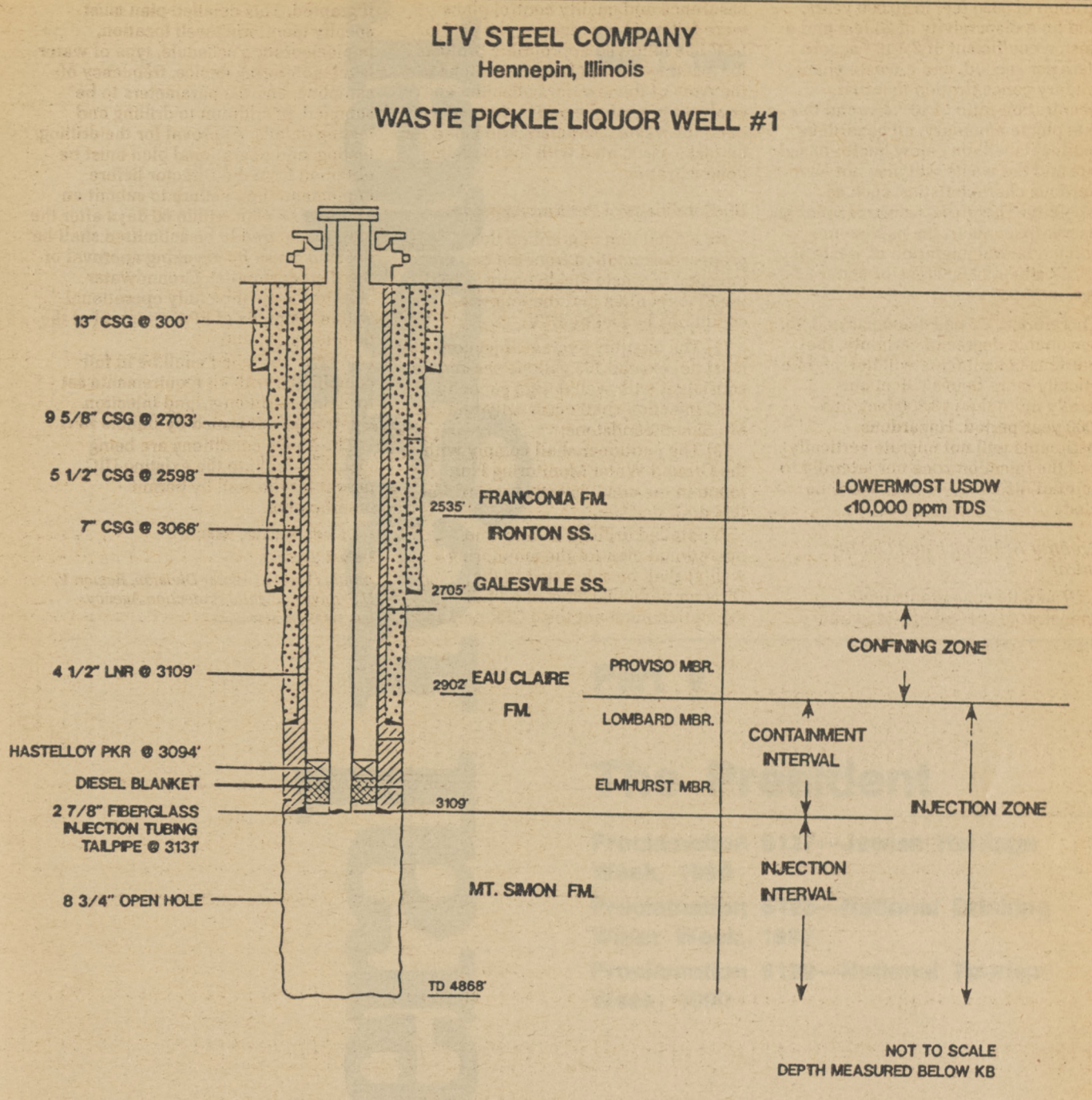
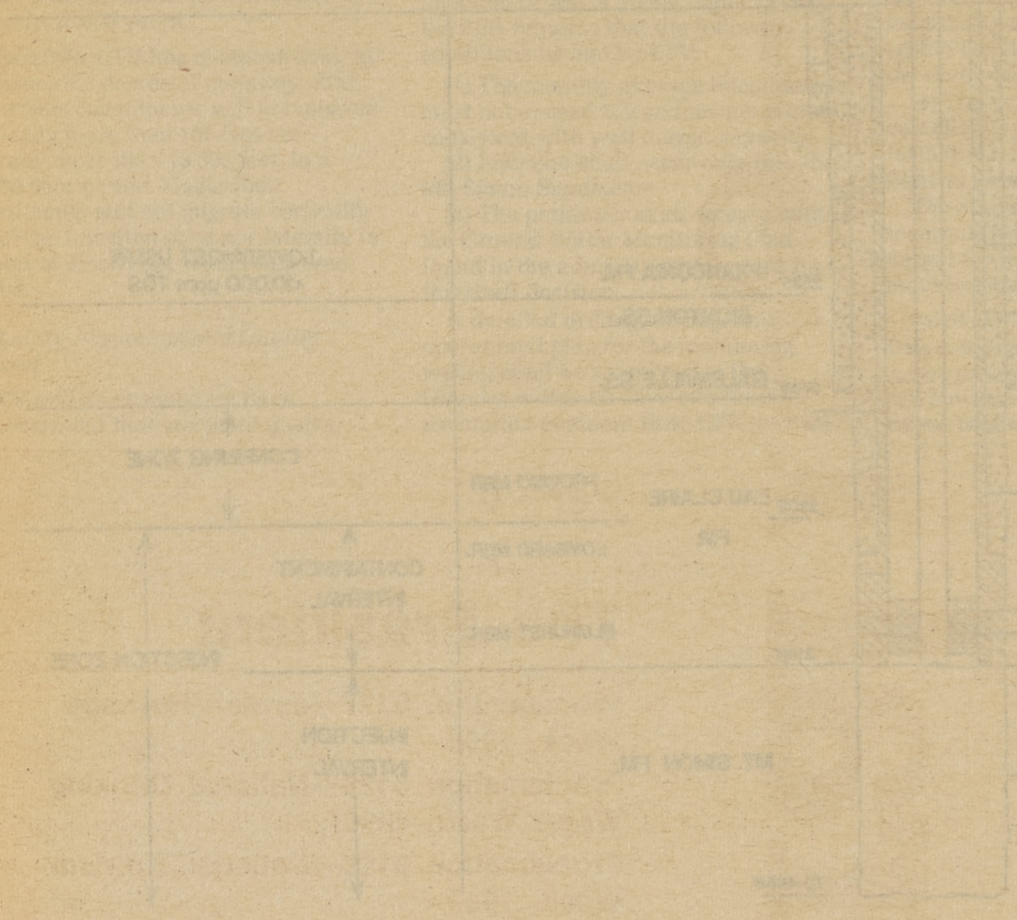


Figure 1. Well Schematic with Stratigraphic Column

[FR Doc. 90–10562 Filed 5–4–90; 8:45 am]
BILLING CODE 6560–50–C



federal register

Monday
May 7, 1990

Part V

The President

Proclamation 6127—Jewish Heritage Week, 1990

Proclamation 6128—National Drinking Water Week, 1990

Proclamation 6129—National Tourism Week, 1990

Digital Edition

Federal Register
Vol. 55, No. 88
Monday, May 7, 1990

Presidential Documents

Title 3—

The President

Proclamation 6127 of May 3, 1990

Jewish Heritage Week, 1990

By the President of the United States of America

A Proclamation

Our Nation has been built by men and women from a variety of cultural backgrounds—people of different races and religions who are united by their love for liberty and opportunity. The character of the United States and our cultural heritage have been enriched immeasurably by this diversity.

Members of the Jewish faith have brought to these shores a rich legacy of law and a profound appreciation for freedom and justice. Our Nation's moral tradition—indeed, the development of all Western Civilization—has been deeply influenced by the laws and teachings recorded in the Old Testament and Judaic history. The principles of moral and ethical conduct that form the basis for American civil order and the foundation of any truly free and just society come to us, in large part, from the commandments given by God to Moses.

Over the years, Jewish men and women have come to this country in search of liberty and the chance to build a better life for themselves and for their children. Through faith and hard work, they have reaped the rewards of both. Their success—shared generously through a host of philanthropic activities—has been a great blessing to all of us. So, too, has been their love for the arts. The Jewish people have produced, and helped to preserve, priceless masterpieces in music, painting, sculpture, and the theater. Equally dedicated to family life and the diligent pursuit of education, they have set a powerful example for all Americans.

The Jewish heritage lends special meaning to the spring season. At this time of year, the observances of Passover, Shavuot, and Holocaust Memorial Day inspire deep reflection and prayer among American Jewry.

Recounting the Exodus and the Israelites' triumph over bondage, the Passover story provides a poignant reminder that freedom's holy light can never be extinguished because God has given it a home in every human heart. Shavuot, which recalls the giving of the law on Mount Sinai, underscores the relationship between respect for the Word of God and the preservation of public order and happiness. On Yom HaShoah, Holocaust Memorial Day, Jewish Americans remember the Nazi atrocities that claimed the lives of 6 million of their fellow Jews, as well as the lives of millions of other innocent men, women, and children in Europe. By joining in this commemoration, and in remembrance of the Warsaw Ghetto Uprising, we renew our determination to defend the dignity and worth of every human life and the rights of every individual, regardless of race or creed. On May 10, we also join our Jewish friends and neighbors in marking the 42nd anniversary of the founding of the modern State of Israel, and we share in the celebration of the modern Exodus of Jews from the Soviet Union, many of whom are going to Israel.

During Jewish Heritage Week, let us recognize the significance of these occasions to American Jewry and acknowledge the many contributions that Jewish citizens have made to our Nation. In so doing, we also celebrate the cultural diversity and spirit of tolerance that have long strengthened the United States.

In honor of the members of our Nation's Jewish community, the Congress, by Senate Joint Resolution 241, has designated the week of May 6 through May 13, 1990, as "Jewish Heritage Week" and has authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week of May 6 through May 13, 1990, as Jewish Heritage Week. I encourage the people of the United States, Federal, State, and local government agencies, and community organizations to observe that week with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of May, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fourteenth.

George Bush

[FR Doc. 90-10788
Filed 5-4-90; 12:00 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 6128 of May 3, 1990

National Drinking Water Week, 1990

By the President of the United States of America

A Proclamation

Safe drinking water is a vital resource. Yet, because our drinking water in the United States is generally low in cost and high in quality, it is easily taken for granted. Thus, this week, we recognize the care and cooperation of those scientists, engineers, lawmakers, water plant operators, and regulatory officials who bring safe and inexpensive drinking water to our taps each day.

Thanks, in large part, to the work of these Americans, serious health problems caused by contaminated drinking water—such as epidemics of cholera and typhoid—have been eliminated in the United States. Today, under the leadership of the Environmental Protection Agency, scientists and water system operators are working to maintain the safety of our drinking water.

The Safe Drinking Water Act of 1974 established standards for drinking water safety, giving the country its first comprehensive national program to protect public drinking water. In 1986, the Congress amended the Act to require guidelines for protecting groundwater, a crucial source of drinking water, from contamination. The Act as amended (Public Law 99–939) also prohibits the use of lead pipe in public drinking water systems.

With the replacement or repair of aging pipes and equipment, the improved operation and maintenance of water treatment facilities, and the implementation of new technologies and conservation programs, our Nation can look forward to a ready supply of safe drinking water for generations to come. Ensuring continued progress toward this goal will require the ongoing efforts of Federal, State, and local government leaders and the sustained cooperation of scientists, waterworks officials, and consumers alike.

In recognition of the importance of safe drinking water, the Congress, by Senate Joint Resolution 230, has designated May 6 through May 12, 1990, as "National Drinking Water Week" and has authorized and requested the President to issue a proclamation in observance of that week.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim May 6 through May 12, 1990, as National Drinking Water Week. I call upon government officials and the people of the United States to observe this week with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of May, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fourteenth.

George Bush

[FR Doc. 90–10793
Filed 5–4–90; 12:01 pm]
Billing code 3195–01–M

Presidential Documents

Proclamation 6129 of May 3, 1990

National Tourism Week, 1990

By the President of the United States of America

A Proclamation

Travel and tourism, whether for business or pleasure, not only hold tremendous economic benefits for our Nation but also offer valuable educational opportunities for visitor and host alike. Each year, the millions of Americans and foreigners who travel throughout the United States learn more about its history and culture and more about one another.

The United States boasts an abundance of fascinating natural and man-made attractions, as well as a variety of fun-filled recreational activities and cultural events. Across the country, historic landmarks trace the course of our national journey, giving visitors a deeper understanding of the people and principles that have shaped this great land of liberty and opportunity.

With all these wonders to explore, and with its wide range of quality services and accommodations, the United States has become a leading destination for world travelers. Today it continues to be the world's best buy for the travel dollar.

The American travel and tourism industry, which is composed almost entirely of small businesses, is the Nation's largest export earner. Last year, foreign travelers spent billions of dollars visiting the United States. The industry is also our second largest employer and our third largest retail industry. Travel and tourism directly or indirectly support millions of jobs throughout the United States, contributing to the economic advancement of entire communities, as well as that of individuals and their families.

During National Tourism Week, we recognize those Americans who earn their livelihood in the travel and tourism industry and gratefully acknowledge their contributions to our Nation's economy. We also recognize the productive partnership among members of the travel and tourism industry, labor, and local, State, and Federal government officials. Most important, perhaps, National Tourism Week reminds us of the many rewards of travel and tourism, especially its role in fostering personal friendships and international understanding and cooperation.

The Congress, by Senate Joint Resolution 153, has designated the week beginning on the second Sunday in May 1990 as "National Tourism Week" and has authorized and requested the President to issue a proclamation in observance of that week.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week beginning May 13, 1990, and ending May 19, 1990, as National Tourism Week. I invite the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of May, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fourteenth.

George Bush

[FR Doc. 90-10794
Filed 5-4-90; 12:02 pm]
Billing code 3195-01-m

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CFR CHECKLIST

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An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] No amendments to this volume were promulgated during the period Jan. 1, 1987 to Dec. 31, 1989. The CFR volume issued January 1, 1987, should be retained.

[3] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[4] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.