AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

8-14-90
Vol. 55 No. 157

federal register

Tuesday
August 14, 1990

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

OFFICIAL BUSINESS
Penalty for private use, $300

SECOND CLASS NEWSPAPER

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

8-14-90
Vol. 55 No. 157
Pages 32095-33274

federal register

Tuesday
August 14, 1990

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

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

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

The **Federal Register** will be furnished by mail to subscribers for $340 per year in paper form; $195 per year in microfiche form; or $37,500 per year for the magnetic tape. Six-month subscriptions are also available at one-half the annual rate. The charge for individual copies in paper or microfiche form is $1.50 for each issue, or $1.50 for each group of pages as actually bound, or $175.00 per magnetic tape. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, or charge to your GPO Deposit Account or VISA or Mastercard.

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

How To Cite This Publication: Use the volume number and the page number. Example: 55 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	202–783–3238
Magnetic tapes	275–3328
Problems with public subscriptions	275–3054

Single copies/back copies:

Paper or fiche	783–3238
Magnetic tapes	275–3328
Problems with public single copies	275–3050

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	523–5240
Magnetic tapes	275–3328
Problems with Federal agency subscriptions	523–5240

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

Contents

Federal Register

Vol. 55, No. 157

Tuesday, August 14, 1990

Agency for Health Care Policy and Research
NOTICES
Grants and cooperative agreements; availability, etc.:
Medical treatment effectiveness research program, 33170
Meetings:
General Research Support Services Advisory Committee, 33169
Medical Treatment Effectiveness Guideline Development Support Advisory Committee, 33169

Agency for Toxic Substances and Disease Registry
NOTICES
Superfund program:
Hazardous substances priority list (toxicological profiles), 33172

Agricultural Marketing Service
RULES
Milk marketing orders:
North Carolina and South Carolina
Correction, 33216

Agriculture Department
See Agricultural Marketing Service; Cooperative State Research Service; Forest Service

Alcohol, Tobacco and Firearms Bureau
NOTICES
Firearms:
Federal firearms privileges restoration; list, 33208

Blackstone River Valley National Heritage Corridor Commission
NOTICES
Meetings; Sunshine Act, 33214

Civil Rights Commission
NOTICES
Meetings; Sunshine Act, 33214

Coast Guard
RULES
Regattas and marine parades:
176th Annual Defenders Day Celebration, 33117
Blackbeard Pirate Jamboree, 33116
Septemberfest Fireworks Display, 33118

Commerce Department
See International Trade Administration; National Oceanic and Atmospheric Administration

Cooperative State Research Service
NOTICES
Meetings:
Animal Health Science Research Advisory Board, 33145

Defense Department
See also Navy Department
PROPOSED RULES
Acquisition regulations:
Miscellaneous amendments, 33218

Drug Enforcement Administration
NOTICES
Clandestine drug laboratories cleanup; guidelines availability, 33181
Schedules of controlled substances; production quotas:
Schedules I and II—
1990 aggregate, 33182
Applications, hearings, determinations, etc.:
Abbott Laboratories, 33183
Johnson Matthey, Inc., 33183
Research Biochemicals Inc., 33183

Education Department
NOTICES
Agency information collection activities under OMB review, 33148
Grantback arrangements; award of funds:
Massachusetts, 33148

Employment and Training Administration
NOTICES
Adjustment assistance:
Electro-Wire Products of Texas, 33185
Lennon Wallpaper, 33186
North Coast Brass & Copper Co., 33185

Energy Department
See also Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department
NOTICES
Privacy Act:
Systems of records, 33149

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
Wisconsin, 33118
NOTICES
Agency information collection activities under OMB review, 33156, 33157
(2 documents)
Air programs:
National radon measurement proficiency program, 33156
Meetings:
Science Advisory Board, 33157, 33158
(2 documents)

Farm Credit Administration
NOTICES
Meetings; Sunshine Act, 33214

Federal Aviation Administration
RULES
Airworthiness directives:
Airbus Industrie, 33095
Beech, 33096
Boeing, 33099–33103
(4 documents)
British Aerospace, 33104–33107
(3 documents)
EMBRAER, 33107

Fokker, 33108
SAAB-Scania, 33109
Wytwornia Sprzetu Komunikacyjnego PZL-Mielec, 33110
Transition areas, 33111
PROPOSED RULES
Airworthiness directives:
Aerospatiale, 33122
Boeing, 33123–33128
(3 documents)
British Aerospace, 33129–33131
(2 documents)
Fokker, 33131
Lockheed, 33132
Short Brothers, PLC, 33135
Rulemaking petitions; summary and disposition, 33122
Transition areas, 33136

Federal Communications Commission
RULES
Common carrier services:
Public mobile service—
Antenna height and effective radiated power increase authorization; correction, 33216

Federal Deposit Insurance Corporation
NOTICES
Meetings; Sunshine Act, 33214

Federal Energy Regulatory Commission
NOTICES
Agency information collection activities under OMB review, 33151
Electric rate, small power production, and interlocking directorate filings, etc.:
ER&L-Duplin, Inc., 33151
Hydroelectric applications, 33151
Applications, hearings, determinations, etc.:
Green Mountain Power Corp., 33154
Pacific Gas Transmission Co.; correction, 33216
Panhandle Eastern Pipeline Co., 33154
Ringwood Gathering Co., 33155

Federal Maritime Commission
NOTICES
Agreements filed, etc., 33158
(3 documents)

Federal Reserve System
NOTICES
Meetings; Sunshine Act, 33214
Applications, hearings, determinations, etc.:
ABN/AMRO Holding N.V. et al.; correction, 33159
Dai-Ichi Kangyo Bank, Ltd., 33159

Federal Trade Commission
NOTICES
Prohibited trade practices:
Consumer Direct, Inc., 33160

Fish and Wildlife Service
RULES
Migratory bird hunting:
Seasons, limits, and shooting hours; establishment, etc., 33264

Food and Drug Administration
RULES
Human drugs:
Corn and callus remover products (OTC); final monograph, 33258
Wart remover products (OTC); final monograph, 33246
NOTICES
Food additive petitions:
Dow Chemical Co., 33173
Medical devices; premarket approval:
Steridyne Sterile Preserved Saline Solution, 33173

Forest Service
NOTICES
Environmental statements; availability, etc.:
Mt. Baker-Snoqualmie National Forest, WA, 33145

General Services Administration
RULES
Federal property management:
Supply and procurement—
Office machines use and replacement standards, and purchase or lease determination guidelines, 33120

Health and Human Services Department
See Agency for Toxic Substances and Disease Registry; Food and Drug Administration; Health Care Financing Administration; Indian Health Service; Social Security Administration

Health Care Financing Administration
NOTICES
Organization, functions, and authority delegations, 33174

Health Care Policy and Research Agency
See Agency for Health Care Policy and Research

Hearings and Appeals Office, Energy Department
NOTICES
Cases filed, 33155

Indian Affairs Bureau
RULES
Energy and minerals:
Oil and gas mining; leasing of Osage Reservation, 33112

Indian Health Service
NOTICES
Grants and cooperative agreements; availability, etc.:
Health professions educational loans repayment program, 33174

Interior Department
See Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau; Minerals Management Service

Internal Revenue Service
PROPOSED RULES
Income taxes:
Acquisitions made to evade or avoid taxes and corporate tax attributes use following ownership change, 33137

International Trade Administration
NOTICES
Antidumping:
High information content flat panel displays and subassemblies from Japan, 33146
Phototypesetting and imagesetting machines and subassemblies from West Germany, 33147

International Trade Commission
NOTICES
Meetings; Sunshine Act, 33215

Interstate Commerce Commission
NOTICES
Railroad operation, acquisition, construction, etc.:
Gettysburg Railroad Co., 33181
SouthRail Corp., 33181
Railroad services abandonment:
Atchison, Topeka & Santa Fe Railway Co., 33180

Justice Department
See Drug Enforcement Administration

Labor Department
See also Employment and Training Administration; Mine Safety and Health Administration; Pension and Welfare Benefits Administration; Veterans Employment and Training, Office of Assistant Secretary
NOTICES
Agency information collection activities under OMB review, 33184

Land Management Bureau
NOTICES
Management framework plans, etc.:
Utah, 33177
Meetings:
Phoenix District Advisory Council, 33177
Winnemucca District Advisory Council, 33178
Realty actions; sales, leases, etc.:
Alaska, 33178
California, 33178
Nevada, 33179
Nevada; correction, 33180

Mine Safety and Health Administration
NOTICES
Safety standard petitions:
Pinckneyville Mining Co., 33186
(2 documents)
Wampler Brothers Coal Co., Inc., 33187

Minerals Management Service
NOTICES
Agency information collection activities under OMB review, 33180

National Highway Traffic Safety Administration
PROPOSED RULES
Motor vehicle safety standards:
Seating systems; pedestal seats, 33141

National Oceanic and Atmospheric Administration
PROPOSED RULES
Fishery conservation and management:
South Atlantic snapper-grouper, 33143

Navy Department
NOTICES
Meetings:
Chief of Naval Operations Executive Panel Advisory Committee, 33147

Nuclear Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Illinois Power Co. et al., 33192
Meetings:
Reactor Safeguards Advisory Committee, 33193
Meetings; Sunshine Act, 33214
Reports; availability, etc.:
Exploratory shaft facility design and construction, technical position; draft, 33193

Pension and Welfare Benefits Administration
NOTICES
Prohibited trade practices:
Sedco Forex Resources, Inc., et al., 33187

Personnel Management Office
NOTICES
Agency information collection activities under OMB review, 33194
(2 documents)

Postal Rate Commission
NOTICES
Visit to facilities; correction, 33194

President's Education Policy Advisory Committee
NOTICES
Meetings, 33194

Public Health Service
See Agency for Toxic Substances and Disease Registry; Food and Drug Administration; Indian Health Service

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
Delta Government Options Corp., 33194
Applications, hearings, determinations, etc.:
Medical Management of America, Inc., 33196
Vanguard Municipal Bond Fund, Inc., et al., 33196

Social Security Administration
NOTICES
Meetings:
Supplemental security income modernization project, 33176

State Department
NOTICES
Agency information collection activities under OMB review, 33198
Meetings:
International Radio Consultative Committee, 33198

Toxic Substances and Disease Registry Agency
See Agency for Toxic Substances and Disease Registry

Transportation Department
See Coast Guard; Federal Aviation Administration; National Highway Traffic Safety Administration

Treasury Department
See also Alcohol, Tobacco and Firearms Bureau; Internal Revenue Service
NOTICES
Bonds, treasury:
2020 series, 33198
Notes, Treasury:
C-2000 series, 33203
U-1993 series, 33207

United States Information Agency
NOTICES
Grants and cooperative agreements; availability, etc.:
University affiliations program, 33210

Veterans Affairs Department
PROPOSED RULES
Life insurance, Government:
Fiduciaries; authority to conduct insurance transactions, 33140
NOTICES
Meetings:
Geriatrics and Gerontology Advisory Committee, 33212

Veterans Employment and Training, Office of Assistant Secretary
NOTICES
Meetings:
Veterans' Employment Committee, 33184

Separate Parts In This Issue

Part II
Department of Defense, 33218

Part III
Department of Health and Human Services, Food and Drug Administration, 33246

Part IV
Department of Health and Human Services, Food and Drug Administration, 33258

Part V
Department of the Interior, Fish and Wildlife Service, 33264

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

CFR PARTS AFFECTED IN THIS ISSUE

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

7 CFR
1005.....33216

14 CFR
39 (13 documents).....33095–33110
71.....33111

Proposed Rules:
Ch. I.....33122
39 (9 documents).....33122–33135
71.....33136

21 CFR
358 (2 documents).....33246, 33258

25 CFR
226.....33112

26 CFR

Proposed Rules:
1.....33137

33 CFR
100 (3 documents).....33116–33118

38 CFR

Proposed Rules:
6.....33140
8.....33140

40 CFR
52.....33118

41 CFR
101–25.....33120

47 CFR
22.....33216

48 CFR
202.....33218
203.....33218
207.....33218
219.....33218
220.....33218
224.....33218
226.....33218
229.....33218
231.....33218
233.....33218
243.....33218
248.....33218
250.....33218
251.....33218
252.....33218
Appendix Q.....33218

49 CFR

Proposed Rules:
571.....33141

50 CFR
20.....33264
646.....33143

Rules and Regulations

Federal Register
Vol. 55, No. 157
Tuesday, August 14, 1990

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90-NM-52-AD; Amdt. 39-6703]

Airworthiness Directives; Airbus Industrie Model A300, A310, and A300-600 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Industrie Model A300, A310, and A300-600 series airplanes, which requires repetitive inspections to detect corrosion in the passenger/crew door dampers and emergency operation cylinders, and repair, if necessary; and provides terminating action for the repetitive inspections. This amendment is prompted by reports of corrosion on the percussion system and on the center piston components discovered during emergency opening of the passenger/crew door. This condition, if not corrected, could result in failure of the door to open during an emergency situation.

EFFECTIVE DATE: September 21, 1990.

ADDRESSES: The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Holt, Standardization Branch, ANM-113; telephone (206) 431-1918. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include a new airworthiness directive, applicable to certain Airbus Industrie Model A300, A310, and A300-600 series airplanes, which would require repetitive inspections to detect corrosion in the passenger/crew door dampers and emergency operation cyclinders, and repair, if necessary, was published in the **Federal Register** on April 30, 1990 (55 FR 17989).

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

Both commenters supported the rule. One commenter noted that the FAA incorrectly cited the service bulletin numbers relating to the inspection of the Model A310 and A300-600 series airplanes. The FAA concurs. Paragraph A. of the final rule has been revised to cite Airbus Industrie Service Bulletins A310-52-2018 and A300-52-6008, as the applicable service information for inspection of the Model A310 and A300-600, respectively.

Paragraph D. of the final rule has been revised to specify the current procedure for submitting requests for approval of an alternate means of compliance.

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 with the changes noted above. The FAA has determined that this change will neither increase the economic burden on any operator, nor increase the scope of the AD.

It is estimated that 103 airplanes of U.S. registry will be affected by this AD, that it will take approximately 9 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 $37,080.

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 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:

Airbus Industrie: Applies to Model A300, A310, and A300-600 series airplanes, on which Modification 6240 has not been incorporated, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To detect corrosion in the passenger/crew door emergency operation cylinders, accomplish the following:

A. Within 180 days after the effective date

of this AD, and thereafter at intervals not to exceed 18 months, inspect the dampers and emergency operation cylinder strikers, in accordance with Airbus Industrie Service Bulletins A300–52–130, or A310–52–2018, or A300–52–6008, all dated December 12, 1985, as applicable.

Note.—The above-referenced service bulletins reference Ratier-Figeac Service Bulletin No. 701–2650–52–3 for additional instructions.

B. If corrosion is found, repair, prior to further flight, in accordance with Ratier-Figeac Service Bulletin No. 701–2650–52–3.

C. Incorporation of Modification 6240, in accordance with Airbus Industrie Service Bulletins A300–52–132, Revision 2, dated October 9, 1987; or A300–52–6010, Revision 3, dated July 15, 1989; or A310–52–2020, Revision 4, dated July 15, 1989; as applicable, constitutes terminating action for the repetitive inspection required by paragraph A., of this AD.

Note.—The above referenced service bulletins reference Ratier-Figeac Service Bulletin No. 701–5000–52–5 and 701–5000–52–7 for additional modification instructions.

D. 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, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

Note.—The request should be submitted directly to the Manager, Standardization Branch, ANM–113, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Manager, Standardization Branch, ANM–113.

E. 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 Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective September 21, 1990.

Issued in Seattle, Washington, on August 6, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90–19039 Filed 8–14–90; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 90–NM–07–AD; Amdt. 39–6690]

Airworthiness Directives; Beech Model 400 Airplanes and Mitsubishi Model MU–300–10 and MU–300 Airplanes, Which Have Been Modified in Accordance With Branson Supplemental Type Certificate (STC) SA2744NM or SA1596NM

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Beech Model 400 airplanes and Mitsubishi Model MU–300–10 and Model MU–300 airplanes, which currently requires either the imposition of certain operating limitations, or the modification of the aft fuselage fuel tanks. That action was prompted by a ground refueling incident where fuel vapors in the Branson STC extended range fuel tank ignited, and the resulting deflagration released liquid and vaporous fuel into the cabin. This condition, if not corrected, could result in an explosion and/or fire in the cabin. This action requires either the modification of the aft fuselage fuel tanks, or the deactivation of the aft fuselage fuel tanks.

EFFECTIVE DATE: September 17, 1990.

ADDRESSES: The applicable service information may be obtained from Branson Aircraft Corporation, 3790 Wheeling Street, Denver, Colorado, 80239, or Beech Aircraft Corporation (United States agents for Mitsubishi Heavy Industries, Incorporated), P. O. Box 85, Wichita, Kansas, 67201–0085. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington, or at the FAA, Central Region, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas.

FOR FURTHER INFORMATION CONTACT: Mr. James M. Peterson, Wichita Aircraft Certification Office, ACE–140W; telephone (316) 946–4427. Mailing address: FAA, Central Region, 1801 Airport Road, Room 100, Wichita, Kansas 67209.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations by superseding AD 89–26–11, Amendment 39–6426 (54 FR 51874, December 19, 1989), applicable to Beech Model 400 Airplanes, Mitsubishi Model MU–300–10 and MU–300 airplanes, which have been modified in accordance with Branson Supplemental Type Certificate (STC) SA2744NM or SA1596NM, to require either the modification or the deactivation of the aft fuselage fuel tanks, was published in the **Federal Register** on March 8, 1990 (55 FR 8474).

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

Two commenters suggested that the SUMMARY section of the preamble to the rule be clarified to state that the reported incident occurred during ground refueling of the fuselage fuel tanks. These commenters believed that the description of the incident, as written, could be interpreted as having occurred in flight. The FAA concurs that the statement is ambiguous and has revised the wording of the SUMMARY to clarify that the reported incident occurred during a ground refueling procedure.

One commenter suggested that the description of the reported incident be revised to state that the incident occurred in the presence of an electrical storm. The commenter believed that the ignition source may have been related to the atmospheric conditions. The FAA does not concur. The investigation of the cited incident revealed no evidence of any external ignition source, and subsequent engineering evaluation discounted the possibility that the ignition was a consequence of an electrical storm.

One commenter suggested that the discussion in the preamble to the rule, regarding flammable mixtures, be expanded and that it refer to switch fueling, which was the case in the cited incident. The commenter stated that under "normal" temperatures, Jet A fuel vapors will be too lean to ignite, and JP–4 fuel vapors will be too rich to ignite. The commenter believed that switch fueling was the primary contributing factor in that incident, and that fuel vapors are flammable at "normal" temperatures only when switch fueling is taking place. The FAA does not concur. Advisory Circular 20–20A, as well as other technical resources, indicate that both JET A and JP–4 fuels are flammable within the temperature range frequently encountered during refueling. Therefore, whether or not switch fueling is taking place, the potential exists for fuel vapor ignition unless the airplane is modified in accordance with this AD.

The commenter continued with a suggestion to include a discussion of the fact that, at the time of the reported incident, the Beech/Mitsubishi fuel tank

was empty, and the fuel transfer lines between that tank and the Branson fuel tank were not covered with fuel. The commenter maintained that the incident would not have occurred had the fuel quantity been sufficient to cover the transfer lines. The FAA acknowledges that the transfer lines were uncovered at the time of the incident, and that such a condition is necessary for a flame to propagate from tank to tank. However, the FAA does not concur with the commenter's suggestion that the incident would not have occurred if the transfer lines were covered, since it is typical for the transfer lines to be uncovered when an airplane is to be refueled. The FAA's investigation did not support the commenter's position that the ignition took place in the Beech tank. Ignition is suspected to have taken place in the Branson tank and was caused by arcing from electrostatically charged fuel from the foam filled tank. In this case, the possibility exists that ignition may take place even with a partially filled tank with the transfer lines covered.

One commenter objected to the issuance of the rule. This commenter believed that the FAA's concern stemmed from U.S. Air Force reports of static discharges, presumably due to fuel sloshing, occurring in the wings of C–130 aircraft when a wing was partially filled with foam. The commenter stated that all these occurrences proved to be harmless and are fully documented in reports prepared at Wright Patterson AFB. The FAA accknowledges that the AD action was prompted by U.S. Air Force experience, as well as the one reported incident. The FAA does not agree the occurrences proved to be harmless. The in-flight and ground refueling incidents experienced by the Air Force included ruptured fuel tanks.

This commenter did not believe that the C–130 history was analogous to that with the combined Branson-Mitsubishi/Beech fuselage fuel system. The slosh motion of a C–130 would be many times greater than the combined Branson-Mitsubishi/Beech fuel system. If slosh was a problem, the Air Force experts have agreed that fuel slosh may be controlled by either foam or baffles within the tank. The commenter submitted that the combined Branson-Mitsubishi/Beech fuel system is adequately baffled due to the "egg crate" internal structure of the Branson tank and the 2-inch diameter lines that connect the Branson and Mitsubishi/Beech tank. The FAA agrees that fuel slosh may be controlled by either foam or baffles. However, the question remains whether the Branson baffled tank installation will prevent an ignition caused by static build up due to fuel flowing (whether from refueling, pitch change, or slosh) through foam on the Beech tank. The baffles in the Branson tank and the connecting fuel line did not prevent ignition and subsequent damage to the connecting line and fuel tank in the incident that led to this AD. Whether the fuel flow and static build up are brought about by slosh, a change in pitch attitude, or refueling makes little difference if the fuel ignites and ruptures the tank. The FAA is concerned, based on the Air Force experience, that the fuel flow and subsequent electrostatic build up and ignition may be caused by slosh or a change in pitch attitude during flight as well as refueling.

This commenter also suggested that the incident which prompted the proposed AD was due to improper grounding of the airplane during refueling, which occurred under very unusual conditions. The FAA's investigation of the incident found no evidence in support of that statement. If such were the case, it only serves to support the FAA's concern of an in-flight occurrence of the fuel vapor igniting in the Branson fuselage fuel tank.

One commenter recommended that the deactivation of the aft fuselage fuel tank (Procedure 1) be deleted, believing such action to be unwarranted. In lieu of Procedure 1, the commenter recommended the following: (1) eliminate gravity refueling of the fuselage fuel tanks; (2) prohibit switch fueling or establish safe procedures; and (3) increase the unusable fuel in the fuselage tanks to ensure the transfer lines are always covered with fuel. The FAA does not concur with these recommendations. During the investigation which resulted in the proposed AD action, the FAA consulted with the Fuel and Hazards Branch of the U.S. Air Force Aero Propulsion Laboratory, as well as with the explosion suppression safety foam manufacturer. Development and qualification tests revealed that blue-colored explosion suppression safety foam is capable of generating hazardous levels of electrostatic charge due to fuel and/or air flow through the foam. Due to the electrically nonconducting nature of the foam, charge accumulation levels may be generated which are high enough to produce spark discharges adequate to ignite flammable vapor mixtures. The U.S. Air Force and the Society of Automotive Engineers design guides contain cautions about volumes devoid of foam adjacent to foam, as is the case in the airplanes to which this AD is applicable. These facts, as well as the incident that prompted this AD, support the FAA's determination that an unsafe condition exists in airplanes which have not accomplished the modification required by the AD action. The only known safe alternative is to deactivate the fuselage fuel tanks (as is provided in this AD).

One commenter stated that the FAA has performed no tests or prepared any reports to substantiate the position that an unsafe condition exists to justify the proposed AD. The commenter expressed a willingness to conduct such tests. The commenter believed the AD should not be issued until such tests are completed. The FAA does not agree. The unsafe condition has already been demonstrated by the incident that prompted this AD action. The FAA is willing to review any new proposal or tests in the future, but does not agree to withhold AD action until the commenter conducts these tests. The Air Force's experience and tests support the FAA's position that the design addressed by this AD should be modified.

One commenter pointed out an error in the number of airplanes affected by the proposal. The economic impact paragraph in the preamble to the NPRM differentiated between the Beech Model 400 and the Mitsubishi Model MU–300–10 airplanes; however, the 64 Beech Model 400 airplanes listed include the 11 Mitsubishi Model MU–300–10 airplanes. The FAA concurs and has changed the economic impact analysis paragraph, below, to reflect the correct number of airplanes.

Another commenter recommended that Mitsubishi Model MU–300, Serial Numbers A001S.A. and A002S.A., be exempted from the requirements of this amendment, since they were never delivered to a customer. The FAA does not concur. The applicability of AD's includes all potentially affected airplanes (Serial Numbers), regardless of delivery status.

A commenter recommended that the Airplane Flight Manual (AFM) limitation in paragraph A.1.a be revised for clarity and continuity with the remainder of Procedure 1. The FAA concurs and has changed the wording of the AFM limitation accordingly.

One commenter recommended that Procedure 2 include a note of clarification to specify that either gravity or transfer fueling of all approved fuels is permitted after Procedure 2 is accomplished. The FAA concurs and has added such a note to Procedure 2.

Finally, one commenter stated that there may be additional costs associated with operating an airplane after deactivation of the fuselage fuel tanks.

and requested that the economic impact analysis be changed to reflect these costs. This commenter stated that, with only wing fuel, the aircraft will have a range of approximately 2 hours or about 600 to 900 nautical miles. The commenter suggested that this will significantly increase the number of takeoffs and landings, causing higher fuel costs, more frequent tire and brake replacements, and increased travel times. The FAA concurs that, with the fuselage tanks deactivated, the airplane's range of flight may be affected somewhat. However, after reviewing the utilization rates for the affected fleet, the FAA notes that, statistically, the business jet fleet's average flight duration is approximately one hour; this is well within the duration of flight remaining after the fuselage tank is deactivated. Consequently, the FAA has determined that no change in the economic impact analysis is necessary.

Paragraph B. of the final rule has been revised to specify the current procedure for submitting requests for approval of an alternate means of compliance.

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 with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator, nor increase the scope of the AD.

There are approximately 64 Mitsubishi MU-300-10/Beech Model 400 airplanes and 91 Mitsubishi Model MU-300 airplanes, for a total of 155 airplanes of the affected design in the worldwide fleet. It is estimated that 120 airplanes of U.S. registry will be affected by this AD.

If an operator chooses to deactivate the aft fuselage fuel tanks (Procedure 1), it is estimated that it will take approximately $25 per airplane for parts and approximately 2 manhours per airplane to accomplish the deactivation procedures, and that the average labor cost will be $40 per manhour. Based on these figures, the cost impact of the AD per operator is estimated to be $105. Therefore, the total cost impact of the AD on U.S. operators electing to accomplish Procedure 1 is estimated to be $12,600.

If an operator chooses to modify the aft fuselage fuel tanks (Procedure 2), Beech Aircraft Corporation and Mitsubishi Heavy Industries, Incorporated, have agreed to absorb all parts and labor costs to modify these airplanes. Therefore, there is no cost impact of the AD on any U.S. operator electing to accomplish Procedure 2.

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 Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by superseding AD 89-26-11, Amendment 39-6426 (54 FR 51874, December 19, 1989), with the following new airworthiness directive:

Branson Aircraft Corporation: Applies to Beech Model 400, Serial Numbers RJ-1 through RJ-50, and RJ-52 through RJ-65, which have been modified in accordance with Branson STC SA2744NM; Mitsubishi Model MU-300-10 airplanes, Serial Numbers A1001S.A. through A1011S.A., which have been modified in accordance with Branson STC SA2744NM; and Mitsubishi Model MU-300 airplanes, Serial Numbers A001S.A. through A091S.A., which have been modified in accordance with Branson STC SA1596NM; certificated in any category. Compliance is required within 30 days after the effective date of this AD, unless previously accomplished.

To prevent the lease of liquid and vaporous fuel into the cabin, and possible subsequent explosion and/or fire in the cabin, accomplish the following:

A. Accomplish either paragraph A.1. (Procedure 1) or paragraph A.2. (Procedure 2) of this AD:

1. *Procedure 1*

a. Incorporate the following into the Operating Limitations Section of the FAA-approved Airplane Flight Manual (AFM):

FUSELAGE TANK REFUELING

Refueling of the fuselage tank is prohibited. Fuselage tank is deactivated.

Note.—The above limitation supersedes any other AFM limitations which may be contradictory.

b. Defuel and drain the fuselage fuel tanks in accordance with the procedures of Chapter 12 of the appropriate Maintenance Manual. If JP-4 or Jet B fuel was the last fuel serviced, refuel and defuel twice with Jet A, Jet A-1 or JP-5 fuel. Use only the Fuselage Tank Fill system to refuel; do not gravity refuel the fuselage tanks.

c. Apply external power and energize the airplane's electrical distribution system.

d. Place the left (L) and right (R) Fuel Transfer (FUEL TRANS) switches, located on the overhead switch panel, to the "OFF" position. Verify that the "L and R FUEL TRANS OPEN" lights on the overhead switch panel are extinguished.

e. On the Forward (F) Circuit Breaker Panel, open and collar circuit breakers F135, "F TRANS PUMP"; F194, "RIGHT F FUEL TRANS"; and F195, "LEFT F FUEL TRANS"; using PACO plastic ring PN S-4933959-503, or equivalent.

f. Place the Fuselage Tank Fill System switch, located on the center console, to the "FILL" position. Verify that the fill system valve in-transit light on the center console does not illuminate momentarily and that the "L BOOST" light on the overhead switch panel does not illuminate. Return the Fuselage Tank Fill System switch to the "OFF" position.

g. Place the "L and R FUEL TRANS" switches, located on the overhead switch panel, to the "ON" position. Verify that the "L FUEL TRANS TRANSIT", "L FUEL TRANS OPEN", "R FUEL TRANS TRANSIT", and "R FUEL TRANS OPEN" lights do not illuminate. Return the "L and R FUEL TRANS" switches to the "OFF" position.

h. Remove power from the airplane's electrical distribution system and removal external power.

i. Fabricate a placard with letters at least .10 inch in height which states:

DO NOT FUEL FUSELAGE FUEL TANK.

FUSELAGE FUEL TANK IS DEACTIVATED.

Install this placard on the Fuselage Tank Fill System Switch panel, located on the center console, in full view of the pilot.

j. Fabricate a placard with letters at least .10 inch in height which states:

DO NOT USE TRANSFER. FUS TANK DEACTIVATED.

Install this placard on the overhead switch panel, in close proximity to the Fuel Transfer control switch panel.

k. Install Beech placard P/N 128–920210–1, or equivalent, centered on the fuselage fuel tank fuel filler access door.

2. *Procedure 2*

Upon completion of the requirements of Procedure 2, either gravity or transfer fueling of the fuselage fuel tank with all approved fuels is permitted.

a. Modify the fuel quantity probe mounting clamps and the transfer line clamps installation in the Branson extended range fuel tank and in the Beech/Mitsubishi aft fuselage fuel tanks, in accordance with the instructions in Branson Service Bulletin Number 2744–1, dated November 3, 1989 (for Beech Model 400 and Mitsubishi Model MU–300–10 airplanes), or in accordance with Branson Service Bulletin 1596–1, dated November 9, 1989 (for Mitsubishi Model MU–300 airplanes).

b. Install static charge dissipating charcoal-colored explosion suppression safety foam in the Branson extended range fuselage fuel tank in accordance with the instructions in Branson Service Bulletin Number 2744–2, dated November 3, 1989 (for Beech Model 400 and Mitsubishi Model MU–300–10 airplanes), or in accordance with Branson Service Bulletin 1596–2, dated November 9, 1989 (for Mitsubishi Model MU–300 airplanes).

c. Remove the existing blue-colored explosion suppression safety foam from the Beech/Mitsubishi aft fuselage fuel tank and install static charge dissipating charcoal-colored explosion suppression safety foam in accordance with the instructions in Part II of Beechcraft Mandatory Service Bulletin Number 2338, dated November 1989 (for Beech Model 400 and Mitsubishi Model MU–300–10 airplanes), or in accordance with Part II of Mitsubishi Heavy Industries Service Bulletin 28–001, dated November 21, 1989 (for Mitsubishi Model MU–300 airplanes).

d. If Procedure 2 is accomplished *after* accomplishing Procedure 1 (described in paragraph A.1. of this AD above), perform the following:

1. Remove the AFM limitation imposed by Procedure 1, subparagraph A.1.a. of this AD.

2. Remove the circuit breaker collars and reset circuit breakers F135, F194, and F195, which were opened and collared by Procedure 1, subparagraph A.1.e. of this AD.

3. Remove the placard from the Fuselage Tank Fill System Switch panel, which was installed by Procedure 1, subparagraph A.1.i. of this AD.

4. Remove the placard from the overhead switch panel, which was installed by Procedure 1, subparagraph A.1.j. of this AD.

5. Remove Beech P/N 128–920210–1 placard, or its equivalent, from the fuselage fuel tank fuel filler access door, which was installed by Procedure 1, subparagraph A.1.k. of this AD.

B. An alternate means of compliance or adjustment of the compliance time, which provides an equivalent level of safety, may be approved by the Manager, Wichita Aircraft Certification Office, FAA, Central Region.

Note.—The request should be submitted to the Manager, Wichita Aircraft Certification Office, ACE–140W, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Manager, Wichita 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 information from the manufacturers may obtain copies upon request to Branson Aircraft Corporation, 3790 Wheeling Street, Denver, Colorado 80239 and Beech Aircraft Corporation (United States agents for Mitsubishi Heavy Industries, Incorporated), P.O. Box 85, Wichita, Kansas 67201–0085. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington, or at the FAA, Central Region, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas.

This amendment supersedes Amendment 39–6426, AD 89–26–11.

This amendment becomes effective September 17, 1990.

Issued in Renton, Washington, on August 3, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90–19040 Filed 8–13–90; 8:45 am]

BILLING CODE 4910–13–M

---

14 CFR Part 39

[Docket No. 90–NM–26–AD; Amdt. 39–6691]

Airworthiness Directives; Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 727 series airplanes, which currently requires inspection, and repair, if necessary, of the main landing gear (MLG) wheel well pressure floor. This amendment requires additional inspections of airplanes on which the terminating modification was installed in accordance with the existing AD; requires inspections of additional airplanes which were modified in production; reduces the initial inspection threshold; and limits the time that blind rivets may be used. This amendment is prompted by several reports of cracking in areas adjacent to the modification. This condition, if not corrected, could result in loss of cabin pressurization.

EFFECTIVE DATE: September 17, 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, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Kathi N. Ishimaru, Airframe Branch, ANM–120S; telephone (206) 227–2778. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations by superseding AD 88–26–02, Amendment 39–6089 (53 FR 50519, December 16, 1988), applicable to Boeing Model 727 series airplanes, to require additional inspections of airplanes on which the terminating modification was installed in accordance with the existing AD; require inspections of additional airplanes which were modified in production; reduce the initial inspection threshold; and limit the time that blind rivets may be used, was published in the **Federal Register** on March 22, 1990 (55 FR 10625).

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.

One commenter requested that paragraph A. of the AD be revised to include inspections accomplished in accordance with Revision 2 of Boeing Service Bulletin 727–53–0149. The FAA does not agree that a change is required since paragraph A. specifies that the service bulletin, Revision 3, or earlier FAA-approved revisions are acceptable as sources for inspection procedures. Revisions 1 and 2 are both FAA-approved revisions.

Paragraph H. of the final rule has been revised to specify the current procedure for submitting requests for approval of alternate means of compliance.

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 with the change described above. This change will neither increase the economic burden on any operator nor increase the scope of the rule.

There are approximately 1,710 Model 727 series airplanes of the affected design in the worldwide fleet. It is estimated that 1,143 airplanes of U.S.

registry will be affected by this AD, that it will take approximately 114 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 $5,212,080.

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 Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by superseding Amendment 39-6089 (53 FR 50519, December 16, 1988), AD 88-26-02, with the following new airworthiness directive:

Boeing: Applies to all Model 727 series airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished.

To detect cracks in the main landing gear (MLG) wheel well pressure floor, accomplish the following:

A. For airplanes line numbers 001 through 1432, perform a detailed visual, high frequency eddy current (HFEC), or dye penetrant inspection for cracks in the pressure floor, in accordance with Boeing Service Bulletin 727-53-0149, Revision 3, dated November 2, 1989, or earlier FAA-approved revisions. Accomplish the above inspection prior to the compliance time specified in paragraph A.1. or A.2. of this AD, whichever occurs earlier:

1. Prior to the accumulation of 30,000 landings or 2,500 landings after January 20, 1989 (effective date of AD 88-26-02, Amendment 39-6089), whichever occurs later; or

2. Prior to the accumulation of 20,000 landings or 2,500 landings after the effective date of this AD, whichever occurs later.

B. For airplanes defined as Group 2 in Boeing Service Bulletin 727-53-0149, Revision 3, dated November 2, 1989, and as Group 1 that have been modified in accordance with Boeing Service Bulletin 727-53-0149, Revision 2, dated March 20, 1981: Prior to the accumulation of 20,000 landings since manufacture or within the next 2,500 landings after the effective date of this AD, whichever occurs later, perform a detailed visual, high frequency eddy current (HFEC), or dye penetrant inspection to detect cracks in the pressure floor, in accordance with Boeing Service Bulletin 727-53-0149, Revision 3, dated November 2, 1989.

C. Repeat the inspection required by paragraphs A. or B. of this AD at intervals as follows:

1. If the previous inspection was accomplished using a visual or dye penetrant inspection technique, the next inspection must be accomplished within 4,000 landings.

2. If the previous inspection was accomplished using an HFEC inspection technique, the next inspection must be accomplished within 5,000 landings.

D. If cracks are detected that do not exceed the limits listed in Table I in the Accomplishment Instructions of Boeing Service Bulletin 727-53-0149, Revision 3, dated November 2, 1989, prior to further flight, repair in accordance with the interim repair described in Part II of the Accomplishment Instructions, or the permanent repair described in Part III of the Accomplishment Instructions of the service bulletin. The interim repair must be replaced within 600 landings after accomplishment of the permanent repair.

E. If cracks are found that exceed the limits listed in Table I in the Accomplishments Instructions of Boeing Service Bulletin 727-53-0149, Revision 3, dated November 2, 1989, prior to further flight, accomplish the permanent repair described in Part III of the Accomplishment Instructions of the service bulletin.

F. Blind fasteners installed in accordance with Part III of Boeing Service Bulletin 727-53-0149, Revision 3, dated November 2, 1989, are to be used as an interim repair only. The blind fasteners have a life limit of 10,000 landings before they must be replaced with solid fasteners in accordance with Part III of the service bulletin. The blind fasteners must be inspected for loose or missing fasteners after accumulating 3,000 landings since installation or 1,000 landings after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 2,500 landings. Blind fasteners installed prior to the effective date of this AD must be replaced prior to the accumulation of 10,000 landings or within 3,000 landings after the effective date of this AD, whichever occurs later.

G. Incorporation of the permanent repairs in accordance with paragraph D. or E. of this AD terminates the repetitive inspection requirements of paragraph C. of this AD for that area. Incorporation of the preventative modification described in Part IV of the Accomplishment Instructions of Boeing Service Bulletin 727-53-0149, Revision 3, dated November 2, 1989, terminates the repetitive inspection requirement of paragraph C. of this AD.

H. 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 (ACO), FAA, Transport Airplane Directorate.

Note.—The request should be submitted directly to the Manager, Seattle ACO, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Seattle ACO.

I. 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, 1601 Lind Avenue, SW., Renton, Washington.

This amendment supersedes Amendment 39-6089, AD 88-26-02.

This amendment becomes effective September 17, 1990.

Issued in Renton, Washington, on August 3, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-19041 Filed 8-13-90; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 90-NM-58-AD; Amdt 39-6695]

Airworthiness Directives; Boeing Model 747-400 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 747-400 series airplanes, which requires

modification of the passenger service unit (PSU) support rails. This amendment is prompted by reports of PSU closure panels falling from the PSU support rails during takeoff and landing. This condition, if not corrected, could result in injury to passengers and could impede evacuation of the passengers in an emergency situation.

EFFECTIVE DATE: September 17, 1990.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Jayson B. Claar, Airframe Branch, ANM-120S; telephone (206) 227-2784. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to Boeing Model 747-400 series airplanes, which requires modifications of the PSU support rails, was published in the **Federal Register** on April 30, 1990 (55 FR 17997).

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

The first commenter expressed no objection to the proposed rule.

The second commenter, a foreign operator, stated that it has had a very limited number of incidents of PSU closure panels falling during landing on its first three aircraft. This commenter cited that, in all cases, the PSU's that became detached were fitted to the outboard PSU rails in zones "C" and "D". The commenter subsequently installed PSU tie bars in zones "C" and "D" as in interim measure, pending full embodiment of the modification described in Boeing Service Bulletin 747-25-2853, dated March 1, 1990. The commenter suggested that the proposed rule be revised to allow incorporation of the modification on a zonal basis, with complete installation within one year of delivery from Boeing. The FAA does not concur. The PSU closure panels in other zones in the airplane are as likely to become detached in a hard landing or a minor crash as the closure panels in zones "C" and "D".

Paragraph B. of the final rule has been revised to specify the current procedure for submitting requests for approval of alternate means of compliance.

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 with the change described above. This change will neither increase the economic burden on any operator, nor increase the scope of the rule.

There are approximately 93 Model 747-400 series airplanes of the affected design in the worldwide fleet. It is estimated that 16 airplanes of U.S. registry will be affected by this AD, that it will take approximately 20 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Modification parts will be provided by the manufacturer at no cost. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $12,800.

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 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:

Boeing: Applies to Model 747-400 series airplanes, listed in Boeing Service Bulletin 747-25-2853, dated March 1, 1990, certificated in any category. Compliance required within the next 90 days after the effective date of this AD, unless previously accomplished.

To prevent injury to passengers by falling PSU closure panels, accomplish the following:

A. Modify the PSU rails in accordance with Boeing Service Bulletin 747-25-2853, dated March 1, 1990.

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 (ACO), FAA, Transport Airplane Directorate.

Note.—The request should be submitted directly to the Manager, Seattle Aircraft Certification Office (ACO), and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the ACO.

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, 1601 Lind Avenue SW., Renton, Washington.

This document becomes effective September 17, 1990.

Issued in Renton, Washington, on August 3, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-19042 Filed 8-13-90; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 90-NM-99-AD; Amdt. 39-6700]

Airworthiness Directives; Boeing Model 737-300, -400, and -500 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises, publishes in the **Federal Register**, and makes effective as to all persons an amendment adopting Airworthiness Directive (AD) T90–10–51, which was previously made effective as to all known U.S. owners and operators of Boeing Model 737–300, –400, and –500 series airplanes by individual telegrams. This AD requires a one-time inspection of the control wheel installation for proper installation of the cotter pin, damage to the attach bolt threads, and replacement, if necessary, and a report of the inspection findings to the FAA. This action is prompted by a report of a co-pilot's control wheel separating from the control column on a Model 737–400 series airplane. This condition, if not corrected, could result in loss of controllability of the airplane. This rule has been revised to include the current procedures for applying for alternate means of compliance, and to add procedures for issuing special flight permits.

DATES: Effective August 27, 1990. Portions of this amendment were effective earlier to recipients of telegraphic AD T90–10–51, issued May 15, 1990.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Dan R. Bui, Airframe Branch, ANM–120S; telephone (206) 227–2775. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

SUPPLEMENTARY INFORMATION: On May 15, 1990, the FAA issued telegraphic AD T90–10–51, applicable to Boeing Model 737–300, –400, and –500 series airplanes, which requires a one-time inspection of the control wheel installation for proper installation of the cotter pin, damage to the attach bolt threads, and replacement, if necessary, and a report of the findings to the FAA. That action was prompted by a recent report of a co-pilot's control wheel separating from the control column on a Model 737–400 series airplane. A follow-on inspection of all Model 737 series airplanes, not yet delivered, indicated that the cotter pins may be missing on other Model 737 series airplanes. An identical design configuration is used for the control wheels on the Model 737–300, –400, and –500 series airplanes. This condition, if not corrected, could result in the loss of controllability of the airplane.

Paragraph C. has been revised to specify the current procedure for submitting requests for approval of alternate means of compliance.

A new paragraph D. has been added to indicate that airplanes may be ferried to a maintenance base to perform the actions required by this AD.

The FAA has determined that these changes will neither increase the economic burden on any affected operator nor increase the scope of the AD.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual telegrams issued on May 15, 1990, to all known U.S. owners and operators of Boeing Model 737–300, –400, and –500 series airplanes. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to § 39.13 of part 39 of the Federal Aviation Regulations (FAR) to make it effective as to all persons.

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB Control Number 2120–0056.

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

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, if filed, 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 Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by revising Telegraphic AD T90–10–51, issued May 15, 1990, as follows:

Boeing: Applies to Model 737–300, –400, and –500 series airplanes, line number 1488 through line number 1866, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent the separation of the control wheel from the control column, accomplish the following:

A. Within 72 hours (clock hours, *not* flight hours) after the effective date of this AD, perform a visual inspection of the control wheels (pilot and co-pilot) for missing cotter pins and damaged threads on the attach bolts.

1. If the cotter pin is in place, properly installed, and no exposed bolt thread damage is evident, no further action is required.

2. If the cotter pin is missing, prior to further flight, check for proper installation of the nut and install a new cotter pin in accordance with the Boeing Model 737 Maintenance Manual.

3. If any exposed bolt thread is found damaged, prior to further flight, replace the nut, bolt, and cotter pin with new parts in accordance with the Boeing Model 737 maintenance manual.

B. Within 48 hours after completion of the inspection required by paragraph A., above, for each airplane, submit a report of findings, positive or negative, to the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, Transport Airplane Directorate (Fax Number (206) 431–1913). This report must include the model of airplane inspected and line number.

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 (ACO), FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Seattle ACO, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Seattle ACO.

D. 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 Airplane Group, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

This amendment becomes effective August 27, 1990.

Portions of this amendment were effective earlier to recipients of telegraphic AD T90-10-51, issued May 15, 1990.

Issued in Renton, Washington, on August 3, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-19043 Filed 8-13-90; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 90-NM-30-AD; Amdt 39-6692]

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 767 series airplanes, which currently requires repetitive functional testing of the wing and engine thermal anti-ice control system. This amendment requires modification of the thermal anti-ice system circuit and replacement of the thermal anti-ice panel, and terminates the requirement for the repetitive functional tests. This amendment is prompted by the development of a modification that eliminates the problems associated with the switches used in the anti-ice control panels and the anti-ice circuit logic. This condition, if not corrected, could result in an undetected failure of the anti-ice system, which could result in an unacceptable ice build-up on the wings or the engine inlets.

EFFECTIVE DATES: September 17, 1990.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Don Kurle, Systems and Equipment Branch, ANM-130S; telephone (206) 227-2674. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations by superseding AD 88-04-04 R1, Amendment 39-5970 (53 FR 25136, July 5, 1988), applicable to Boeing Model 767 series airplanes, to require modification of the thermal anti-ice system circuit and replacement of the thermal anti-ice panel, was published in the Federal Register on March 19, 1990 (55 FR 10072).

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 Line Pilots Association (ALPA) supported the rule.

The Air Transport Association (ATA) of America expressed concern about the proposed 3,000-hour time limit to accomplish the terminating action, indicating that modification kit/parts would not be available for a time period in excess of one year. Equivalent aircraft time accumulated in one year would exceed the 3,000-hour time limit. ATA requested that the compliance period be increased to 6,000 hours after the effective date of this AD, with the 300-hour check continued until terminating action is complete. The FAA concurs. Since issuance of the Notice, the FAA has been advised that parts required to accomplish the terminating action will not be available for one year; therefore, the compliance period for that requirement has been extended in the final rule to 6,000 hours time-in-service. The 300-hour repetitive functional test must be conducted until the modification is completed.

The ATA also expressed concern that Boeing Alert Service Bulletin 767-30A0011, Revision 2, does not directly state that Component Service Bulletin 233T3241-30-01 is required to modify the control module used in the airplane modification. The FAA does not concur. Boeing Alert Service Bulletin 767-30A0011, Revision 2, specifically states (on page 1 of the summary and page 6 of the bulletin) that the thermal anti-ice control panel is to be replaced with a control panel modified in accordance with Component Service Bulletin 233T3241-30-01.

Paragraph D. of the final rule has been revised to specify the current procedure for submitting requests for approval of alternate means of compliance.

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 proposd with the change previously described. The FAA has determined that this change will neither increase the economic burden on any operator, nor increase the scope of the AD.

There are approximately 263 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 12.5 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Parts are estimated to cost $489 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $100,779.

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 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 Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by superseding AD 88–04–04 R1, Amendment 39–5970 (53 FR 25136, July 5, 1988), with the following new airworthiness directive:

Boeing: Applies to Model 767 series airplanes as listed in Boeing Service Bulletin 767–30A0011, Revision 2, dated September 28, 1989, certified in any category. Compliance required as indicated, unless previously accomplished.

To ensure the integrity of the wing and engine anti-ice system, accomplish the following:

A. Within the next 300 hours time-in-service after July 21, 1988 (the effective date of Amendment 39–5970), and thereafter at intervals not to exceed 300 hours time-in-service, perform the wing and engine thermal anti-ice operational test described in Boeing Service Bulletin 767–30A0011, Revision 2, dated September 28, 1989.

Note: This is the same as the operational test required by AD 88–04–04 R1.

B. Any switch or circuit malfunction, identified by a negative verification during the functional test required by paragraph A of this AD, must be corrected prior to further flight, in accordance with the Boeing Model 767 Maintenance Manual or Boeing Service Bulletin 767–30A0011, Revision 2, dated September 28, 1989.

C. Within the next 6,000 hours time-in-service after the effective date of this AD, modify the thermal anti-ice system in accordance with Boeing Service Bulletin 767–30A0011, Revision 2, dated September 28, 1989. This constitutes terminating action for repetitive operational testing required by paragraph A. of this AD.

D. 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 (ACO), FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Seattle ACO, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Seattle ACO.

E. 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 Airplane Group, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

This amendment becomes effective September 17, 1990.

Issued in Renton, Washington, on August 3, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90–19073 Filed 8–13–90; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 90–NM–53–AD; Amt. 39–6693]

Airworthiness Directives; British Aerospace Model BAC 1–11 200 and 400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain British Aerospace Model BAC 1–11 series airplanes, which requires repetitive visual inspections to detect cracks in the elevator lower control lever assemblies located at the base of the fin rear spar, and replacement, if necessary. This amendment is prompted by a recent report of two cracks found in the eye-end of the elevator lower control lever assembly. This condition, if not corrected, could result in loss of structural integrity in one of the two load paths and subsequent reduction in airplane stability and controllability.

EFFECTIVE DATE: September 17, 1990.

ADDRESSES: The applicable service information may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041–0414. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Standardization Branch, ANM–113; telephone (206) 227–2148. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include a new airworthiness directive, applicable to certain British Aerospace Model BAC 1–11 series airplanes, which would require repetitive visual inspections to detect cracks in the elevator lower control lever assemblies located at the base of the fin rear spar, and replacement, if necessary, was published in the Federal Register on May 15, 1990 (55 FR 20165).

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received in response to the proposal.

Paragraph D. of the final rule has been revised to specify the current procedure for submitting requests for approval of an alternate means of compliance.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule with the change noted above. This change will neither increase the economic burden on any operator nor increase the scope of the rule.

It is estimated that 70 airplanes of U.S. registry will be affected by this AD, that it will take approximately 6 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 $16,800.

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 Pub. L. 97-449, January 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

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

British Aerospace: Applies to Model BAC 1-11 200 and 400 series airplanes, as listed in British Aerospace Alert Service Bulletin 27-A-PM5871, Issue No. 1, dated October 4, 1989, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent a reduction in airplane stability and controllability, accomplish the following:

A. Within 60 days after the effective date of this AD, unless accomplished within the last 12 months, and thereafter at intervals not to exceed 18 months, perform a visual inspection of both elevator lower control levers, in accordance with paragraphs 2.1 and 2.3 through 2.9 of British Aerospace Alert Service Bulletin 27-A-PM5871, Issue No. 1, dated October 4, 1989.

B. If cracks are found, prior to further flight, replace the elevator control lever(s) in accordance with the British Aerospace Alert Service Bulletin 27-A-PM5871, Issue No. 1, dated October 4, 1989.

C. Replacement of both elevator lower control levers with levers manufactured from L64 or L99 material constitutes terminating action for repetitive inspections required by paragraph A. of this AD.

D. 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, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

Note: The requests should be submitted directly to the Manager, Standardization Branch, ANM-113, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Manager, Standardization Branch, ANM-113.

E. 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 British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

This amendment becomes effective September 17, 1990.

Issued in Renton, Washington, on August 3, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-19044 Filed 8-13-90; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 90-NM-73-AD; Amdt. 39-6698]

Airworthiness Directives; British Aerospace Model BAC 1-11 200 and 400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all British Aerospace Model BAC 1-11 200 and 400 series airplanes, which requires repetitive ultrasonic and dye penetrant inspections of the main landing gear pintles to detect cracks in the forward reaction rod lug; repetitive ultrasonic inspections to detect cracks in the rear bearing spigot, and replacement, if necessary; and replacement of all pintles prior to reaching specified life limits. This amendment is prompted by reports of in-service fatigue cracking of the rear bearing spigot and possible subsequent cracking in the forward reaction rod lug. This condition, if not corrected, could result in a collapse of the main landing gear.

EFFECTIVE DATE: September 17, 1990.

ADDRESSES: The applicable service information may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Standardization Branch, ANM-113; telephone (206) 227-2148. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include a new airworthiness directive, applicable to all British Aerospace Model BAC 1-11 200 and 400 series airplanes, which requires repetitive ultrasonic and dye penetrant inspections of the main landing gear pintles to detect cracks in the forward reaction rod lug; repetitive ultrasonic inspections to detect cracks in the rear bearing spigot, and replacement, if necessary; and replacement of all pintles prior to reaching specified life limits, was published in the **Federal Register** on May 18, 1990 (55 FR 20610).

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received in response to the proposal.

Paragraph F. of the final rule has been revised to specify the current procedure for submitting requests for approval of an alternate means of compliance.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule with the change noted above. The FAA has determined that this change will neither increase the economic burden on any operator, nor increase the scope of the rule.

It is estimated that 70 airplanes of U.S. registry will be affected by this AD, that it will take approximately 80 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 $224,000.

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 Pub. L. 97-449, January 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

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

British Aerospace, PLC: Applies to all Model BAC 1-11 200 and 400 series airplanes, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To detect cracks in the right and left main landing gear (MLG) pintle forward reaction rod lug and the rear bearing spigot, and to prevent a collapse of the MLG, accomplish the following:

A. Prior to the accumulation of 30,000 landings or within 1,400 landings after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 1,400 landings, perform an ultrasonic inspection of the forward reaction rod lug on all pintles Pre-Modification PM3247, in accordance with British Aerospace Alert Service Bulletin 32-A-PM5492, Issue 2, dated October 18, 1989 (Reference Appendix 1, and Figures 1 and 2). If cracks are suspected as a result of this inspection, perform a dye penetrant inspection with the front reaction rod disconnected and the spherical bearing housing and bushing removed from the pintle lug in accordance with the service bulletin.

B. Prior to the accumulation of 30,000 landings or within 1,400 landings after the effective date of this AD, whichever occurs later, unless accomplished within the last 2,800 landings, and thereafter at intervals not to exceed 4,200 landings, perform a dye penetrant inspection of the forward reaction rod lug on all pintles Pre-Modification PM3247, with the front reaction rod disconnected and the spherical bearing-housing and bushing removed from the pintle lug, in accordance with British Aerospace Alert Service Bulletin 32-A-PM5492. Issue 2, dated October 18, 1989.

C. Perform the initial and repetitive ultrasonic inspections of the right and left MLG pintle rear bearing spigots, in accordance with British Aerospace Alert Service Bulletin 32-A-PM5492, Issue 2, dated October 18, 1989, at the following intervals:

1. Prior to the accumulation of 25,000 landings, or within 1,000 landings after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 1,000 landings, perform an inspection of pintles having part numbers identified in paragraph 2.3 of the service bulletin.

2. Prior to the accumulation of 30,000 landings, or within 1,400 landings after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 1,400 landings, perform an inspection of pintles having part numbers identified in paragraph 2.4 of the service bulletin.

3. Prior to the accumulation of 40,000 landings, or within 1,400 landings after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 1,400 landings, perform an inspection of pintles having part number identified in paragraph 2.5 of the service bulletin.

D. If cracked pintles are found as a result of the inspections required by paragraphs A., B., or C. of this AD, replace the pintles prior to further flight, in accordance with British Aerospace Alert Service Bulletin 32-A-PM5492, Issue 2, dated October 18, 1989.

E. All right and left MLG pintles must be replaced prior to reaching the life limits (scrap life) identified in Appendix 1 of British Aerospace Alert Service Bulletin 32-A-PM5492, Issue 2, dated October 18, 1989.

F. 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, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Standardization Branch, ANM-113, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Manager, Standardization Branch, ANM-113.

G. 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 British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, D.C. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

This amendment becomes effective September 17, 1990.

Issued in Renton, Washington, on August 3, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-19045 Filed 8-13-90; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 90-NM-78-AD; Amdt. 39-6699]

Airworthiness Directives; British Aerospace Model HS.125-700A and BAe 125-800A Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain British Aerospace Model HS.125-700A and BAe 125-800A series airplanes, which requires the installation of additional circuit breaker identification labels. This amendment is prompted by a report that some circuit breakers were not color-coded during production. This condition, if not corrected, in the event of fire or smoke in the cockpit, could result in crewmembers being unable to identify and pull the appropriate circuit breaker to discontinue electrical power to the defective equipment causing the smoke or fire.

EFFECTIVE DATE: September 17, 1990.

ADDRESSES: The applicable service information may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Standardization Branch, ANM-113; telephone (206) 227-2148. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include a new airworthiness directive, applicable to certain British Aerospace Model HS. 125-700A and BAe 125-800A series airplanes, which requires the installation of additional circuit breaker identification labels, was published in the **Federal Register** on May 18, 1990 (55 FR 20609).

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

The commenter supports the rule.

Paragraph B. of the final rule has been revised to specify the current procedure for submitting requests for approval of an alternate means of compliance.

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 with the change noted above.

It is estimated that 12 airplanes of U.S. registry will be affected by this AD, that it will take approximately one-half manhour per airplane to accomplish the required actions, and that the average

labor cost will be $40 per manhour. The estimated cost for the identification labels is negligible. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $240.

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 Rule 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 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:

British Aerospace: Applies to Model HS.125-700A and BAe 125-800A series airplanes, as listed in British Aerospace Service Bulletin 24-263-9486A, Revision 1, dated January 27, 1988, certificated in any category. Compliance is required within 30 days after the effective date of this AD, unless previously accomplished.

To ensure crewmembers will pull the correct circuit breakers to electrical/electronic equipment that may be the source of fire or smoke in the cockpit, accomplish the following.

A. Install circuit breaker identification labels in panel DA-A, in accordance with British Aerospace Service Bulletin 24-263-9486A, Revision 1, dated January 27, 1988.

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, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Standardization Branch, ANM-113, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Manager, Standardization Branch, ANM-113.

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 British Aerospace PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

This amendment becomes effective September 17, 1990.

Issued in Renton, Washington, on August 3, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-19046 Filed 8-13-90; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 90-NM-59-AD; Amdt. 39-6696]

Airworthiness Directives; Empresa Brasileira de Aeronautica, S.A. (EMBRAER) Model EMB-120 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain EMBRAER Model EMB-120 series airplanes, which requires the installation of an electromechanical lockout device to prevent movement of the power control levers below the flight idle position while the airplane is in flight. This amendment is prompted by reports of propeller overspeed which could have resulted from inadvertent movement of the power control levers below flight idle during flight. This condition, if not corrected, could result in the failure of one or both engines.

EFFECTIVE DATE: September 17, 1990.

ADDRESSES: The applicable service information may be obtained from EMBRAER, 276 S.W. 34th Street, Fort Lauderdale, Florida 33315. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington, or at the FAA, Central Region, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT: Mr. Gilbert Carter, Propulsion Branch, ACE-140A; telephone (404) 991-3810. Mailing address: FAA, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia 30349.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include a new airworthiness directive, applicable to certain EMBRAER model EMB-120 series airplanes, which would require the installation of an electromechanical lockout device to prevent movement of the power control levers below the flight idle position while the airplane is in flight, was published in the Federal Register on April 30, 1990 (55 FR 17991).

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

The commenter supported the basic intent of the proposed AD, but emphasized that the flight idle lockout device should not be considered the final action for the propeller overspeed problem. The FAA concurs. The FAA will continue to monitor service experience, as well as any analytical and test efforts related to causes of overspeed. The FAA may consider further rulemaking action to revise the AD if such action is warranted.

Since the issuance of the Notice, EMBRAER has issued Revision 2 to Service Bulletin 120-076-0009, dated May 3, 1990. This revision clarifies the procedure for installing the flight idle position electromechanical lockout device. The final rule has been revised to reflect the latest revision to the service bulletin as an additional service information source.

Paragraph B. of the final rule has been revised to specify the current procedure for submitting requests for approval of an alternate means of compliance.

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 with the changes noted above. The FAA has determined that these changes will neither increase the economic burden on any operator, nor increase the scope of the AD.

It is estimated that 110 airplanes of U.S. registry will be affected by this AD, that it will take approximately 68 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. The estimated cost for the modification kit is $2,700. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $596,200.

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 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:

Empresa Brasileira de Aeronautica, S.A. (EMBRAER): Applies to EMBRAER Model EMB-120 series airplanes, Serial Numbers 120004 and 120006 through 120177, certificated in any category. Compliance is required within 120 days after the effective date of this AD, unless previously accomplished.

To prevent engine failure due to propeller overspeed, accomplish the following:

A. Install a flight idle position electromechanical lockout device in accordance with EMBRAER Service Bulletin Number 120-076-0009, Revision 1, dated February 23, 1990, or Revision 2, dated May 3, 1990.

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, Atlanta Aircraft Certification Office, FAA, Central Region.

Note: The request should be submitted directly to the Manager, Atlanta Aircraft Certification Office, ACE-115A, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Manager, Atlanta 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 EMBRAER, 276 S.W. 34th Street, Fort Lauderdale, Florida 33315. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue, S.W., Renton, Washington, or at the FAA, Central Region, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia.

This amendment becomes effective September 17, 1990.

Issued in Renton, Washington, on August 3, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-19047 Filed 8-13-90; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 90-NM-65-AD; Amdt. 39-6697]

Airworthiness Directives; Fokker Model F-27 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Fokker Model F-27 series airplanes, which requires a one-time high frequency eddy current (HFEC) inspection to detect cracks in the fork-end fittings of the wing upper skin stringers at the outboard side of the Wing Station 4155 joint, and repair or replacement, if necessary. This amendment is prompted by reports of cracking of the fork-ends on the outboard side of the joint due to stress corrosion. This condition, if not corrected, could result in reduced structural integrity of the wing.

EFFECTIVE DATE: September 17, 1990.

ADDRESSES: The applicable service information may be obtained from Fokker Aircraft USA, Inc., 1199 N. Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Huhn, Standardization Branch, ANM-113; telephone (206) 227-2141. Mailing address: FAA, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include a new airworthiness directive, applicable to certain Fokker Model F-27 series airplanes, which requires a one-time high frequency eddy current (HFEC) inspection to detect cracks in the fork-end fittings of the wing upper skin stringers at the outboard side of the Wing Station 4155 joint, and repair, if necessary, was published in the Federal Register on May 8, 1990 (55 FR 19086).

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received in response to the proposal.

Paragraph D. of the final rule has been revised to amend the current procedure for submitting requests for approval of an alternate means of compliance.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule with the change noted above. The FAA has determined that this change will neither increase the economic burden on any operator, nor increase the scope of the rule.

This is considered to be interim action. The manufacturer is currently attempting to determine the extent and nature of the addressed damage, and is developing an appropriate repetitive inspection schedule and/or modification that will preclude the need for repetitive inspections. Once these are developed,

the FAA may consider further rulemaking to revise this AD to require additional action.

It is estimated that 44 airplanes of U.S. registry will be affected by this AD, that it will take approximately 10 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 $17,600.

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 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:

Fokker: Applies to Model F-27 series airplanes, Serial Numbers 10102 and 10105 through 10624, inclusive, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent reduced structural integrity of the wing, accomplish the following:

A. Within 180 days after the effective date of this AD, perform a high frequency eddy current (HFEC) inspection of the fork-end fittings of the wing upper skin stringers at the outboard side of the Wing Station 4155 joint, in accordance with Fokker Service Bulletin F27/57-64, Revision 1, dated March 28, 1990.

B. If cracks are found in the lower part of the fillet radius, prior to further flight, blend until there is no crack indication, but do not exceed a maximum depth of 2.5 mm, in accordance with Fokker Service Bulletin F27/57-64, Revision 1, dated March 28, 1990. If the crack is still present after maximum blending, the affected coupling rods must be replaced prior to further flight.

C. If cracks are found in the upper part of the fillet radius, replace the affected coupling rods, prior to further flight, in accordance with Fokker Service Bulletin F27/57-64, Revision 1, dated March 28, 1990.

D. 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, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Standardization Branch, ANM-113, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Manager, Standardization Branch, ANM-113.

E. 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 Fokker Aircraft USA, Inc., 1199 N. Fairfax Street, Alexandria, Virginia 22314. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SE., Renton, Washington.

This amendment becomes effective September 17, 1990.

Issued in Renton, Washington, on August 3, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-19048 Filed 8-13-90; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 90-NM-55-AD; Amdt. 39-6694]

Airworthiness Directives; SAAB-Scania Model SF-340A Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to all SAAB-Scania Model SF-340A series airplanes, which currently requires the modification of the empennage deicer boot system and nacelle inlet protection device. This amendment requires a repetitive drain check to prevent water from accumulating and subsequently freezing in the elevator deicer boot system. This amendment is prompted by a change in a maintenance check interval specified in one of the service bulletins referenced in the AD. This condition, if not corrected, could result in loss of the tail deicer system.

EFFECTIVE DATE: September 17, 1990.

ADDRESSES: The applicable service information may be obtained from SAAB-Scania Aircraft Division, Product Support, S.58188, Linköping, Sweden. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Quam, Standardization Branch, ANM-113; telephone (206) 227-2145. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations by superseding AD 86-04-05, Amendment 39-5229 (51 FR 4298, February 4, 1986), applicable to all SAAB-Scania Model SF-340A series airplanes, to require the modification of the empennage deicer boot system and nacelle inlet protection device, and a repetitive drain check to prevent water from accumulating and subsequently freezing in the elevator deicer boot system, was published in the **Federal Register** on April 30, 1990 (55 FR 17993).

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

The commenter supported the rule, but recommended a review to determine if the Model SAAB 340B should be included in the proposed rulemaking if the same conditions addressed for the Model SF-340A are possible for the Model SAAB 340B. The FAA agress with the recommended review. After review, the FAA has determined that the Model SAAB 340B need not be included in this action because: (1) The improved drain design was installed in the Model SAAB 340B during production, and (2) the drain interval check has been specified in the applicable Maintenance Review Board

(MRB) document; i.e., every LC2 check or approximately every 7 days. These actions fulfill the intent of the proposed rule.

Paragraph C. of the final rule has been revised to specify the current procedure for submitting requests for approval of an alternate means of compliance.

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 with the change noted above. The FAA has determined that this change will neither increase the economic burden on any operator, nor increase the scope of the AD.

It is estimated that 89 airplanes of U.S. registry will be affected by this AD, that it will take approximately 3 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 $10,680.

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 entitites 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 Pub. L. 97-499, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by superseding Amendment 39-5229 (51 FR 4298, February 4, 1986), AD 86-04-05, with the following new airworthiness directive:

Saab Scania: Applies to all Model SF-340A series airplanes, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent moisture accumulation in the elevator deicer boot system, accomplish the following:

A. Within 60 days after March 13, 1986 (the effective date of AD 86-04-05, Amendment 39-5229), accomplish the following:

1. Modify the empennage deicer boot pneumatic system in accordance with SAAB Service Bulletin SF340-30-008, Revision 1, dated February 11, 1985; and

2. Modify the nacelle inlet protection device exhaust nozzle in accordance with SAAB Service Bulletin SF340-54-002, Revision 1, dated April 3, 1985.

B. Within 7 days after the effective date of this amendment, and thereafter at intervals not to exceed 7 days, drain and check the two elevator deicing system drain traps in accordance with paragraph D.(2) of SAAB Service Bulletin SF340-30-008, Revision 2, dated December 8, 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, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Standarization Branch, ANM-113, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Manager, Standardization Branch, ANM-113.

D. 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 SAAB-Scania, Product Support, S.58188, Linköping, Sweden. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

This amendment supersedes Amendment 39-5229, AD 86-04-05.

This amendment becomes effective September 17, 1990.

Issued in Renton, Washington, on August 3, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-19049 Filed 8-13-90; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 90-CE-26-AD; Amdt. 39-6678]

Airworthiness Directives; Wytwornia Sprzetu Komunikacyjnego PZL-Mielec Model M18 (Dromader) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to certain Wytwornia Sprzetu Komunikacyjnego PZL-Mielec Model M18 airplanes, which requires an inspection of the vertical fin and rib in the area of the rudder upper attachment joint for cracks or damage, and subsequent reinforcement of the fin and rib. The FAA has received two reports of failures in this area. This rulemaking action will preclude structural failure of the vertical fin.

EFFECTIVE DATE: September 17, 1990.

Compliance: Required as indicated in the body of the AD, unless already accomplished.

ADDRESSES: PZL-Mielec Mandatory Engineering Bulletin (MEB) No. K/02.135/89, dated December 29, 1989, applicable to this AD, may be obtained from Wytwornia Sprzetu Komunikacyjnego PZL Mielec 39-301 Mielec, Poland. This information may also be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Richard F. Yotter, Aerospace Engineer, Aircraft Certification Service, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 426-6932, or Mr. Carl Mittag, Aerospace Engineer, Brussels Aircraft Certification Office, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B-1000, Brussels, Belgium; Telephone 322 513.38.30.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD requiring initial visual inspection for cracks or damage and subsequent reinforcement of the fin in the area of the upper rudder attach point on certain Wytwornia Sprzetu Komunikacyjnego

PZL-Mielec Model M18 airplanes was published in the Federal Register on April 17, 1990 (55 FR 14292). The proposal resulted from two reports of cracks and damage to the attachment of the vertical fin to the rudder fitting on PZL Mielec Model M18 airplanes. Consequently, PZL-Mielec issued PZL-Mielec MEB No. K/02.135/89, dated December 29, 1989, which specifies an initial visual inspection for cracks or damage and subsequent reinforcement of the fin in the area of the upper rudder attach point. If any part is found to be cracked or damaged, it is to be repaired and the fin reinforced. If no cracks or damage are found, the fin is to be reinforced at a later time.

The Central Administration of Civil Aviation (CACA), which has responsibility and authority to maintain the continuing airworthiness of these airplanes in Poland, classified this Engineering Bulletin and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes.

On airplanes operated under Polish registration, this action has the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of the CACA combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design certificated for operation in the United States.

The FAA examined the available information related to the issuance of PZL-Mielec MEB No. K/02.135/89, dated December 29, 1989, and the mandatory classification of this Engineering Bulletin by the CACA, and concluded that the condition addressed by PZL-Mielec MEB No. K/02.135/89, dated December 29, 1989, was an unsafe condition that may exist on other airplanes of this type certificated for operation in the United States.

Accordingly, the FAA proposed an amendment to part 39 of the Federal Aviation Regulations to include an AD on this subject. Interested persons have been afforded an opportunity to comment on the proposal. No comments or objections were received on the proposal or the FAA determination of the related cost to the public. Therefore, the proposal is adopted without change. The FAA has determined that this regulation involves 42 airplanes at an approximate one-time cost for inspecting and modifying the airplanes of $1,000 for each airplane, or a total one-time fleet cost of $42,000.

The cost of compliance with the proposed AD is so small that the expense of compliance will not have a significant financial impact on any small entities operating these airplanes. 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.

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) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR 39.13) 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 AD:

Wytwornia Sprzetu Komunikacyjnego PZL-Mielec: Applies to Model M18 (Dromader) (Serial Numbers 1Z001-01 through 1Z021-30) airplanes certificated in any category.

Compliance: Required as indicated in the body of the AD, unless already accomplished.

To prevent failure of the vertical fin and rib in the area of the upper rudder attachment, accomplish the following:

(a) Within the next 50 hours time-in-service (TIS) after the effective date of this AD, remove the bolts attaching the fin to the rudder and visually inspect the vertical fin and rib in the area of the upper rudder attachment area for cracks or damage in accordance with the instructions in PZL-Mielec Mandatory Engineering Bulletin (MEB) No. K/02.135/89, dated December 29, 1989.

(1) If cracks or damage are found in the vertical fin and rib from the spar to the rear wall, prior to further flight repair the damaged area and reinforce the vertical fin and rib in accordance with the above MEB.

(2) If no cracks or damage are found, return the aircraft to service and within the next 500 hours TIS reinforce the vertical fin and rib in accordance with the above MEB.

(b) The airplane may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(c) An alternate method of compliance or adjustment of the initial or repetitive compliance times which provides an equivalent level of safety, may be approved by the Manager, Brussels Aircraft Certification Office, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, 1000 Brussels, Belgium; Telephone 513.38.30 extension 2710/2711.

Note: The request should be forwarded through an FAA Maintenance Inspector, who may add comments and then send it to the Manager, Brussels Aircraft Certification Office.

All persons affected by this directive may obtain copies of the document(s) referred to herein upon request to Wytwornia Sprzetu Komunikacyjnego PZL-Mielec 39-301 Mielec, Poland; or may examine these documents at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on September 17, 1990.

Issued in Kansas City, Missouri, on July 13, 1990.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-19050 Filed 8-13-90; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 89-ASW-70]

Establishment of Transition Area; Sallisaw, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; delay of effective date.

SUMMARY: This action changes the effective date for the establishment of the Sallisaw, OK, Transition Area. The proposed commissioning date of the new Sallisaw Nondirectional Radio Beacon (NDB) has been delayed; therefore, the effective date of the

establishment of the transition area must also be delayed.

EFFECTIVE DATE: The effective date of 0901 u.t.c, August 23, 1990, is delayed to 0901 u.t.c., December 13, 1990.

FOR FURTHER INFORMATION CONTACT: Mark F. Kennedy, System Management Branch, Air Traffic Division, Southwest Region, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193–0530, telephone (817) 624–5561.

SUPPLEMENTARY INFORMATION:

History

Airspace Docket No. 89–ASW–70, published in the **Federal Register** on July 10, 1990 (55 FR 28186), established a transition area at Sallisaw, OK. The development of a new SIAP to the Sallisaw Municipal Airport, utilizing the new Sallisaw NDB, made this action necessary. This action was originally scheduled to become effective on August 23, 1990; however, an unforeseen delay in the commissioning of the Sallisaw NDB has required the effective date of this action to be delayed until December 13, 1990.

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, Transition areas.

Delay of Effective Date

The effective date on Airspace Docket No. 89–ASW–70 is hereby delayed from August 23, 1990, to December 13, 1990.

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.

Issued in Fort Worth, TX, on July 31, 1990.

Larry L. Craig,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 90–19051 Filed 8–13–90; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 226

RIN 1076–AC09

Leasing of Osage Reservation Lands for Oil and Gas Mining

June 18, 1990.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: The rules are being amended to strengthen the management of the Osage mineral estates and relieve the Osage oil lessees from basing the payment of royalties to the Osage Tribe on the offered or posted price of a major purchaser in the Kansas-Oklahoma area. These regulations will improve the management of the Osage mineral estate and will alleviate the economic hardship placed on the oil lessees.

EFFECTIVE DATE: September 13, 1990.

FOR FURTHER INFORMATION CONTACT: Jack Shoemate, Superintendent, or Newell Barker, Chief, Branch of Minerals, Osage Agency, Bureau of Indian Affairs, Grandview Avenue, Pawhuska, OK 74056, Phone (918) 287–2481 or 287–2471.

SUPPLEMENTARY INFORMATION: This final rule is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary-Indian Affairs by 209 DM8.

Legal Authority

Sec 3, 34 Stat. 543
Sec 1, 45 Stat. 1478
Sec 2, 45 Stat. 1478
Sec 1, 45 Stat. 1479
Sec 2, 45 Stat. 1479

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

The Department of the Interior has also determined that this final rule does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969.

This rule does not contain collections of information which require approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

On October 26, 1987 (52 FR 38608), the Bureau of Indian Affairs published proposed revisions to 25 CFR part 226, offering the public an opportunity to comment on the requirements for leasing of Osage reservation lands for oil and gas mining. Comments were received from 97 sources, including individual Indian and oil companies. The following paragraphs summarize the comments and suggestions received and actions taken.

One commenter recommended that the proposed amendments be submitted to the Osage Tribe for referendum vote. This recommendation would imply an improper delegation of the Secretary of the Interior's authority to enact regulations. However, we note that the Osage Tribe has reviewed the proposed amendments and submitted comments. The comment is, therefore, not accepted.

Section 226.1(h): One comment was received on this section. The commenter contends that the redefinition of "major purchaser" may result in higher, not lower, royalty payments. This contention would lead to a more theoretical than practical result. Currently over 95 percent of the purchase of oil in Osage County, Oklahoma, is by three companies, each of which qualifies as a "major purchaser" as defined under the current regulations; therefore, any price increase they would contemplate would increase the "highest posted price" under either the current or proposed section. The purpose of this section is to change the definition of "major purchaser" to include only those companies purchasing oil in Osage County, Oklahoma. This will relieve lessees from paying a higher price for royalty oil than they could receive. This comment is, therefore, not accepted. This section was revised to increase the percentage from "80" to "95" percent to provide a vehicle to increase the number of purchasers to qualify as "major purchasers", also the exclusion of oil sold by a purchaser to itself, its subordinates, partnerships, associates or other corporations in which a purchaser has a financial or management interest would also protect the other lessees from having to pay a higher price for royalty oil than they could receive.

Sections 226.3 through 226.45 are redesignated as § 226.4 through 226.46 and a new § 226.3 was added providing that the Office of Management and Budget has determined that information collection requirements contained in this part need not be submitted for clearance pursuant to 44 U.S.C. 3501 *et seq.*

Sections 226.7 (a) and (c): One commenter objected to increasing the bond requirements from $2,500 to $5,000 in light of lower oil prices. The $5,000 minimum bond requirement has been

enforced for several years because of higher costs associated with oil and gas operations. It has not had an adverse effect on the leases. The comment is, therefore, not accepted.

Section 226.12(a)(2): Ninety-three comments were received on this section. The commenters objected to basing the highest posted price by a major purchaser [as defined in § 226.1(h)] in Osage County, Oklahoma, rather than Kansas-Oklahoma area, stating that such change would reduce the Osage tribal income. One commenter thought that the change would be beneficial. Under the current regulations, if the "major purchaser" setting the highest posted price does business in the Kansas-Oklahoma area but does not purchase oil in Osage County, Oklahoma, the Osage County, Oklahoma, lessees would be required to pay royalty based on a price higher than the highest price the lessees could possibly receive. The revision of this section can prevent this from happening. This could have a beneficial effect on the exploration and development of oil leases. The comments are, therefore, not accepted.

Section 226.12(b)(1): One comment was received on this section. The commenter contends that the last sentence of the section is confusing. The last sentence of this section is clear and the only difference between the proposed amendment and the existing regulation is that the words "or sold" are added between the words "utilized" and "by" in that sentence. The comment is, therefore, not accepted.

Section 226.14(a): This section has been revised by inserting the words "the sales of" between the words "cover" and "the" and by adding the last sentence providing for waiver of late charges by the Osage Tribal Council, subject to the approval of the Superintendent.

Section 226.15(b): This section has been revised to substitute the number "25th" of the number "15th" and to authorize the Superintendent to grant, not to exceed 10 days, an extension from the 25th day of each month to file monthly statements reporting gross barrels of oil and/or gross Mcf of gas sold during the preceding month.

Section 226.16(e): This is a new paragraph which authorizes the lessee to combine separate oil and gas leases covering the same acreage.

Section 226.19: Two comments were made on this section. One commenter objected to the requirement that unless waived by the Superintendent, a meeting should be held between the lessee and surface owner at least 10 days prior to commencement of operations. The commenter recommends inserting the phrase "or otherwise agreed to between the lessee and surface owner." Experience has revealed that the 10 day period is appropriate; however, the commenter's recommendation is accepted. A second commenter objected to the 10 day period on the ground that it would have an adverse economic impact. Any such impact would be minimal. The second comment is, therefore, not accepted.

Section 226.19(d): This subsection is corrected to read "(e)" instead of "(d)" and revised by substituting the word "when" for "where" and by adding the phrase "or cannot be contacted at the last know address."

Section 226.20(a): This section was revised to add the word "avoidable" between the words "any" and "nuisance".

Section 226.20(b): This section was revised by replacing the word "redrilling" for the word "drilling", adding the word "originally" between the words "was" and "drilled", replacing the word "current" for the "original", removing the word "contract," and removing the words "in any way".

Section 226.20(d): This subsection increases the tank site fee from $40 to $100. One commenter contended that this increase will lead to further economic disadvantage to lessees. The $40 fee is inadequate. The increase to $100 would help resolve controversies between the lessees and the landowners over tank site fees. The comment is, therefore, not accepted.

Section 226.22(f): One commenter objected to the adoption of the interest rate established for the Internal Revenue Service. This rate is subject to fluctuation based on economic conditions and is fair both to the lessee and surface owner. The comment is, therefore, not accepted.

Section 226.23(b): Two commenters objected to replacing the phrase "as soon as possible" with the word "immediately" and one suggested the phrase "as soon as practicable." This revision is reflected in § 226.23 paragraph (b).

Section 226.23(e): This section is completely revised and expanded to apply all phases of oil and gas operations to prevent pollution.

Section 226.24: This section is revised by inserting the words "commercial and noncommercial" between the words "grant" and "easements" and removing the phrase "waste or salt water disposal, water inspection, water supply, or other necessary services" and inserting the phrase "purposes associated with oil and gas production."

Section 226.26: The introductory paragraph of this section is revised to require an oil and gas lessee, prior to drilling, to notify the other lessee of his intent to drill. One commenter recommends the inclusion of the phrase "including, but not limited to, drill stem testing or production testing of the formation or zone." The revision is all inclusive. The comment is, therefore, not accepted.

Section 226.26 (a) and (b): These paragraphs are revised by replacing the number "45" for the number "15".

Section 226.26(a)-(c): These paragraphs are revised by adding two new sentences which provide that in the event the oil lessee and gas lessee cannot agree on the cost of the well, such cost shall be apportioned between them by the Superintendent and if they do not accept the apportionment, the well shall be plugged by the oil and gas lessee who drilled the well.

Section 226.29: The introductory paragraph is revised by adding the words "for any purpose" in the second sentence, between the words "well" and "without". One commenter requests that this section be revised to authorize verbal authority to plug a well. This would not be an appropriate management practice. The comment is, therefore, not accepted.

Section 226.29(a): This paragraph is revised by adding the word "permanently" between the words "to" and "shut".

Section 226.29(c): Three comments were received on this section. One commenter was concerned that the wells could be shut in without prior notice or opportunity for hearing and without a requirement that the Superintendent show cause, and that the lessee be granted a hearing and thorough explanation of the cause before the well can be shut in. One commenter stated that the shut in of a well by the Superintendent should be subject to an appeal. One commenter thought such action would have, in many cases, a significant economic impact. This new section was included to grant the Superintendent authority to shut in wells in those instances when lessee fails to comply with terms of the lease, regulations, and orders of the Superintendent. Because there are lessees who refuse to adhere to the terms of the leases, regulations, and orders of the Superintendent, the authority of the Superintendent to shut in wells is necessary in the management of oil and gas operations. The comments are, therefore, not accepted.

Section 226.34: One commenter stated that the "300 feet boundary line" should

apply at formation depth to allow for surface features that might require directional drilling and that the new sentence which provides that failure to procure written permission from the Superintendent will subject lessee to cancellation of the lease and/or plugging of well. This section serves to clarify the necessary authority of the Superintendent. The comment is, therefore, not accepted.

Section 226.35: One commenter objects to the requirement of permanently marking all wells and tank batteries because such requirement would have an adverse economic impact. This portion of the regulation is already in effect. No additional adverse impact is foreseen. A second commenter recommended that lessees be authorized to put an answering service number on the tank batteries in lieu of lessee's telephone number. There is nothing in this section preventing utilization of an answering service number. The comments are, therefore, not accepted.

Section 226.37: This section is revised by removing the words "wildcat territory" and requiring that an approved gate valve or other controlling device be installed on the well.

Section 226.43: Three comments were received on this section. The commenters objected to removal of the 30 day notice requisite to the imposition of the fine or cancellation of the lease and the removal of the provision for a hearing before the Superintendent. In those instances in which the Superintendent imposes a fine or cancels the lease, the affected party has right of appeal pursuant to 25 CFR part 2. The comments are, therefore, not accepted. This section was also revised to grant to the Osage Tribal Council, subject to the approval of the Superintendent, authority to waive any late charge.

Section 226.44(a)-(h): One comment was received on this section. The commenter recommended that fines imposed in subsections (a) through (h) not be increased and that the new subsection (j) is not needed and should be removed. The amount of the current fines imposed under existing regulations is inadequate. The purpose of the subsection (j) is to give notice that knowingly filing fraudulent reports and information could result in criminal penalties. The comment is, therefore, not accepted.

Section 226.45: One comment was received on this section. The commenter recommended that the right of any aggrieved party to a hearing before the Superintendent relative to any decision or order made by the Superintendent be retained to assure constitutional due process to the lessee. The removal of the right of hearing before the Superintendent does not jeopardize the constitutional due process rights of the lessee. The aggrieved party has a right to appeal pursuant to 25 CFR part 2. The comment is, therefore, not accepted.

Section 226.46: One comment was made on this section. The commenter contended that generic notices/orders must be promulgated with full public review and specific notices/orders to lessees must be subject to rebuttal. The purpose of this section is to bind lessees when notices/orders are given to their representatives and/or operators and not to establish authority to issue generic notices/orders. The Superintendent issues specific notices and orders concerning specific matters. If the lessee is aggrieved by the notice or order, the aggrieved party may appeal pursuant to 25 CFR part 2. The comment is, therefore, not accepted.

Additional changes were made to correct gender specific language and were not identified in the revisions enumerated above.

The primary authors of this document are Jack Shoemate, Superintendent, and Newell Barker, Chief, Branch of Minerals, of the Osage Agency, Pawhuska, Oklahoma.

List of Subjects in 25 CFR Part 226

Indians—lands, Mineral resources, Mines, Oil and gas exploration.

For the reasons set out in the preamble, part 226 of title 25, chapter 1 of the Code of Federal Regulations is amended as set forth below.

PART 226—[AMENDED]

1. The authority citation for 25 CFR part 226 is revised to read as follows:

Authority: Sec. 3, 34 Stat. 543; secs. 1, 2, 45 Stat. 1478; sec. 3, 52 Stat. 1034, 1035; sec. 2(a), 92 Stat. 1660.

2. In § 226.1 paragraph (h) is revised to read as follows:

§ 226.1 Definitions.

* * * * *

(h) *Major purchaser* means any one of the minimum number of purchasers taking 95 percent of the oil in Osage County, Oklahoma. Any oil purchased by a purchaser from itself, its subsidiaries, partnerships, associations, or other corporations in which it has a financial or management interest shall be excluded from the determination of a major purchaser.

* * * * *

§ 226.6 [Amended]

3. Section 226.6 is amended by: (a) Removing in paragraphs (a) and (c) the words "the penal sum of not less than $2,500" and adding in their place the words "an amount of not less than $5,000"; (b) in paragraph (a) adding the words "oil, gas and combination oil and gas" between the words "all" and "leases" and removing the words "on the Osage Mineral Estate"; and (c) in paragraph (c) the words "on form G or nationwide bond" are added between the word "bond" and the comma which immediately follows.

4. In § 226.11, paragraph (b)(1) is amended by: (a) Adding in the second sentence the word "be" between the words "and" and "subject"; (b) adding the word "an" in the third sentence between the words "If" and "oil"; adding the word "/hers" after the word "his"; (c) in the last sentence, adding the words "or sold" between the words "utilized" and "by"; and (d) revising paragraph (a)(2) to read as follows:

§ 226.11 Royalty payments.

(a) * * *

(2) Unless the Osage Tribal Council, with approval of the Secretary, shall elect to take the royalty in kind, payment is owing at the time of sale or removal of the oil, except where payments are made on division orders, and settlement shall be based on the highest of the bona fide selling price, posted or offered price by a major purchaser (as defined in § 226.1(h)) in Osage County, Oklahoma, who purchases production from Osage oil leases.

* * * * *

§ 226.13 [Amended]

5. In § 226.13, paragraph (a) is amended by: Adding, in the second sentence, the words "the sales of" between the words "cover" and "the"; and a new sentence is added to the end of the paragraph to read as follows: "The Osage Tribal Council, subject to the approval of the Superintendent, may waive the late charges.".

6. In § 226.14, paragraph (b) is revised to read as follows:

§ 226.14 Contracts and division orders.

* * * * *

(b) Lessee shall require the purchaser of oil and/or gas from his/her lease or leases to furnish the Superintendent, no later than the 25th day of each month, a statement reporting the gross barrels of oil and/or gross Mcf of gas sold during the preceding month. The Superintendent may authorize an extension of time, not to exceed 10 days, for furnishing this statement.

7. In § 226.15, paragraph (e) is added to read as follows:

§ 226.15 Unit leases, assignments and related instruments.

* * * * *

(e) *Combining leases.* The lessee owning both an oil lease and gas lease covering the same acreage is authorized to convert such leases to a combination oil and gas lease.

8. In § 226.18, the introductory text and paragraph (e) are revised to read as follows:

§ 226.18 Information to be given surface owners prior to commencement of drilling operations.

Except for the surveying and staking of a well, no operations of any kind shall commence until the lessee or his/her authorized representative shall meet with the surface owner or his/her representative, if a resident of and present in Osage County, Oklahoma. Unless waived by the Superintendent or otherwise agreed to between the lessee and surface owner, such meeting shall be held at least 10 days prior to the commencement or any operations, except for the surveying and staking of the well. At such meeting lessee or his/her authorized representative shall comply with the following requirements:

* * * * *

(e) When the surface owner or his/her representative is not a resident of, or is not physically present in, Osage County, Oklahoma, or cannot be contacted at the last known address, the Superintendent may authorize lessee to proceed with operations.

§ 226.19 [Amended]

9. In § 226.19, paragraphs (a), (b), and (d) are amended by adding the word "/her" to the word "his" at each occurrence; in the third sentence of paragraph (a) remove the word "route" in its first use and in its place add the work "routing," in the fourth sentence remove the words "set out in" and in their place add the words "established by," and add in the last sentence the word "avoidable" before the word "nuisance;" in paragraph (b) remove in the second sentence the word "drilling" and add in its place the word "redrilling," add the word "originally" before the word "drilled," remove the work "original" and add in its place the word "currently," remove the word "contract" from the end of the second sentence, and in the fifth sentence remove the words "in any way;" in paragraph (d) remove in the first sentence the amount of "$40" and in its place add the amount of "$100," add the word "site" before the first instance of the word "or," and in the last sentence remove the word "fixed" and in its place add the word "determined."

§ 226.21 [Amended]

10. In § 226.21, paragraph (f) is amended by removing the word "forthwith" from its present location in the first sentence and adding the word "forthwith" to follow directly after the word "served;" in the fourth sentence the words "/her" and "/she" are added to the words "his" and "he" respectively, add a comma after the word "same," remove the words "the rate of 6 percent per annum" and add in their place the words "an annual rate established for the Internal Revenue Service," and remove the last sentence of the paragraph.

11. In § 226.22, paragraph (b) is amended by removing the words "so as" after the word "maintained" in the first sentence, removing the words "As soon as possible" and adding in their place the word "Immediately" in the third sentence; and paragraph (e) is revised to read as follows:

§ 226.22 Prohibition of pollution.

* * * * *

(e) Deleterious fluids other than fresh water drilling fluids used in drilling or workover operations, which are displaced or produced in well completion or stimulation procedures, including but not limited to fracturing, acidizing, swabbing, and drill stem tests, shall be collected into a pit lined with plastic of at least 30 mil or a metal tank and maintained separately from above-mentioned drilling fluids to allow for separate disposal.

§ 226.23 [Amended]

12. Section 226.23 is amended by adding in the first sentence the words "commercial and noncommercial" before the word "easements," and removing the words "waste or salt water disposal, water injection, water supply, or other necessary services" and adding in their place the words "purposes associated with oil and gas production."

§ 226.25 [Amended]

13. Section 226.25 is amended by: (a) Adding the word "/she" to the word "he" and removing the number "15" and adding in its place the number "45" in each occurrence; in the introductory paragraph adding as the new first sentence: "Prior to drilling, the oil or gas lessee shall notify the other lessees of his/her intent to drill.", and in the last sentence removing the words "would normally obtain" and in their place adding the word "utilizes"; (c) in paragraph (a) removing in the third sentence, the words "the same following the word "drilling," and inserting a comma directly thereafter; in paragraph (b) removing in the third sentence the word "the" before the word "receipt," removing the word "such" before the word "notice," removing the words "notice of the," and in the fourth sentence inserting the word "casing" preceding and followed by commas after the word "tubing,"; (c) in paragraph (a), (b), and (c) adding two new sentences to the end of the paragraphs to read as follows: "In the event the oil lessee and gas lessee cannot agree on the cost of the well, such cost shall be apportioned between the oil and gas lessee by the Superintendent. If such apportionment is not accepted, the well shall be plugged by the oil and gas lessee who drilled the well"; (f) in paragraph (c) removing the words "the oil lessee shall drill a gas well on lands not leased for gas purposes," from the second sentence and adding in their place the words "or vice versa,"; in the third sentence removing the word "Where" and in its place adding the word "When", removing the comma and the words "as the case may be," after the word "lessee" and in its place adding the word "for", add a comma and the word "tubing," after the word "casing"; and from the fourth sentence remove the words "then be subject to the approval of" and add in their place the words "be determined by."

14. Sections 226.28 is amended by: (a) Adding the words "for any purpose" after the word "well" in the second sentence of the introductory paragraph and adding the word "/her" to the word "him" in the last sentence of the same paragraph; (b) in paragraph (a) adding the word "permanently" before the word "shut", removing the words "therefore and" and inserting in their place a comma and the words "probable duration," after the word "justification"; and (c) a new paragraph (c) is added to read as follows:

§ 226.28 Shutdown, abandonment, and plugging of wells.

* * * * *

(c) The Superintendent is authorized to shut in a lease when the lessee fails to comply with the terms of the lease, the regulations, and/or orders of the Superintendent.

15. In § 226.29, paragraph (a) is revised to read as follows:

§ 226.29 Disposition of casings and other improvements.

(a) Upon termination of lease, permanent improvements, unless

otherwise provided by written agreement with the surface owner and filed with the Superintendent, shall remain a part of said land and become the property of the surface owner upon termination of the lease, other than by cancellation. Exceptions include personal property not limited to tools, tanks, pipelines, pumping and drilling equipment, derricks, engines, machinery, tubing, and the casings of all wells: Provided, That when any lease terminates, all such personal property shall be removed the word "terminates"; and in the last sentence of the paragraph, within 90 days or such reasonable extension of time as may be granted by the Superintendent. Otherwise, the ownership of all casings shall revert to Lessor and all other personal property and permanent improvements to the surface owner. Nothing herein shall be construed to relieve lessee of responsibility for removing any such personal property or permanent improvements from the premises if required by the Superintendent and restoring the premises as nearly as practicable to the original state.

* * * * *

§ 226.33 [Amended]

16. Section 226.33 is amended by adding as the last sentence of the section the following: "Failure to obtain advance written permission from the Superintendent shall subject lessee to cancellation of his/her lease and/or plugging of the well."

17. Section 226.34 is revised to read as follows:

§ 226.34 Wells and tank batteries to be marked.

Lessee shall clearly and permanently mark all wells and tank batteries in a conspicuous place with number, legal description, operator, and telephone number, and shall take all necessary precautions to preserve these markings.

18. Section 226.36 is revised to read as follows:

§ 226.36 Control devices.

In drilling operations in fields where high pressures, lost circulation, or other conditions exist which could result in blowouts, lessee shall install an approved gate valve or other controlling device which is in proper working condition for use until the well is completed. At all times preventative measures must be taken in all well operations to maintain proper control of subsurface strata.

§ 226.42 [Amended]

19. Section 226.42 is amended by: (a) In the first sentence removing the colon after the word "cancellation:", and deleting all language following to the end of the first sentence and by inserting a period directly after the word "cancellation"; (b) by removing the words "Payments of penalties" at the beginning of the second sentence and in their place the word "Fines", removing the word "final" and in its place adding the word "the" before the word "decision" and after the word "decision" removing the words "is given"; (c) by adding a new sentence at the end of the section, which reads as follows: "The Osage Tribal Council, subject to the approval of the Superintendent, may waive the late charge."

20. Section 226.43 is amended by removing the amount of "$10" and adding in its place the amount of "$50" in paragraphs (a), (b), (d), and (h); in paragraph (g) the words "B.S. and salt water" are removed and in their place the words "deleterious fluids" are added, and the parenthetical language and one comma between the citation and the amount of $500 is removed; and a new paragraph (j) is added to read as follows:

§ 226.43 Penalties for violation of certain operating regulations.

* * * * *

(j) Lessee or his/her authorized representative is hereby notified that criminal procedures are provided by 18 U.S.C. § 1001 for knowingly filing fraudulent reports and information.

21. Section 226.44 is revised to read as follows:

§ 226.44 Appeals.

Any person, firm or corporation aggrieved by any decision or order issued by or under the authority of the Superintendent, by virtue of the regulations in this part, may appeal pursuant to 25 CFR part 2.

22. Section 226.45 is revised to read as follows:

§ 226.45 Notices.

Notices and orders issued by the Superintendent to the representative and/or operator shall be binding on the lessee. The Superintendent may in his/her discretion increase the time allowed in his/her orders and notices.

23. A new § 226.46 will be added to read as follows:

§ 226.46 Information collection.

The Office of Management and Budget has determined that the information collection requirements contained in this part need not be submitted for clearance pursuant to 44 U.S.C. 3501 *et seq.*

Walter R. Mills,

Acting Assistant Secretary, Indian Affairs.

[FR Doc. 90-18980 Filed 8-13-90; 8:45 am]

BILLING CODE 4310-02-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05-90-51]

Special Local Regulations for Marine Events at Blackbeard Pirate Jamboree; Town Point, Elizabeth River, Norfolk and Portsmouth, VA

AGENCY: Coast Guard, DOT.

ACTION: Notice of Implementation of 33 CFR 100.501.

SUMMARY: This notice implements 33 CFR 100.501 for the Blackbeard Pirate Jamboree to be held on the Elizabeth River at Town Point Park, Norfolk and Portsmouth, Virginia. The regulations in 33 CFR 100.501 are needed to control vessel traffic within the immediate vicinity of the event due to the confined nature of the waterway and the expected congestion at the time of the event. The regulations restrict general navigation in the area for the safety of life and property and the navigable waters during the event.

EFFECTIVE DATES: The regulations in 33 CFR 100.501 are effective from 11 a.m. to 2:30 p.m., September 15, 1990.

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

Drafting Information:

The drafters of this notice are QM1 Kevin R. Connors, project officer, Boating Affairs Branch, Boating Safety Division, Fifth Coast Guard District, and Captain Michael K. Cain, project attorney, Fifth Coast Guard District Legal Staff.

Discussion of Regulation:

Norfolk Festevents, Ltd. submitted an application dated January 19, 1990 to hold the Blackbeard Pirate Jamboree on the Elizabeth River at Town Point Park, Norfolk and Portsmouth, Virginia. The event will consist of a parade of sail at noon followed by an orchestrated water drama with cannon fire between two vessels. Since many spectator vessels are expected to be in the area to watch

the jamboree, the regulations in 33 CFR 100.501 are being implemented for these events. Since the waterway will not be closed for an extended period, commercial traffic should not be severely disrupted.

In addition to regulating the area for the safety of life and property, this notice of implementation also authorizes the Patrol Commander to regulate the operation of the Berkley drawbridge in accordance with 33 CFR 117.1007, and authorizes spectators to anchor in the special anchorage areas described in 33 CFR 110.72aa. 33 CFR 110.72aa establishes the spectator anchorages in 33 CFR 100.501 as special anchorage areas under Inland Navigation Rule 30, 33 U.S.C. 2030(g). 33 CFR 117.1007 closes the draw of the Berkley Bridge to vessels during and for one hour before and after the effective period under 33 CFR 100.501, except that the Coast Guard Patrol Commander may order that the draw be opened for commercial vessels.

Dated: August 6, 1990.

P.A. Welling,

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

[FR Doc. 90-19013 Filed 8-13-90; 8:45 am]

BILLING CODE 4910-14-M

---

33 CFR Part 100

[CGD 05-90-52]

Special Local Regulations for Marine Events at 176th Annual Defenders Day Celebration; Fort McHenry, Baltimore, MD

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special location regulations are being adopted for the 176th Annual Defenders Day Celebration. These regulations are necessary to control spectator craft and to provide for the safety of life and property on navigable waters during the event.

EFFECTIVE DATE: These regulations are effective from 5:30 p.m. to 9:30 p.m., September 9, 1990.

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

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for these regulations and good cause exists for making them effective in less than 30 days from the date of publication. Adherence to normal rulemaking procedures would not have been possible. Specifically, there is insufficient time to publish a notice of proposed rulemaking in advance of the event.

Drafting Information

The drafters of this notice are QM1 Kevin R. Connors, project officer, Boating Affairs Branch, Fifth Coast Guard District, and Captain Michael K. Cain, project attorney, Fifth Coast Guard District Legal Staff.

Discussion of Regulations

The National Park Service and the Society of the War of 1812 submitted an application to hold the 176th Annual Defenders Day Celebration on September 9, 1990. The event will consist of a shore based artillery unit firing out over the water, mock bombardment charges, and a fireworks display. The fireworks will be launched from a barge anchored approximately 120 yards northeast of Fort McHenry Range Front Light (LLNR 7550), Patapsco River, East Channel, Baltimore, Maryland. These regulations are necessary to control spectator craft and to provide for the safety of life and property on navigable waters during the event. A portion of the East Channel will be closed during the fireworks displays. Since the main shipping channel will not be closed for an extended period, commercial traffic should not be severely disrupted.

Economic Assessment and Certification

These regulations are not considered either major under Executive Order 12291 on Federal Regulation or significant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact is expected to be so minimal that a full regulatory evaluation is unnecessary. Because of this minimal impact, the Coast Guard certifies that these regulations will not have a significant economic impact on a substantial number of small entities.

Federalism Assessment

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

Environmental Impact

This final rule has been thoroughly reviewed by the Coast Guard and has been determined to be categorically excluded from further environmental documentation in accordance with section 2.B.2.c of Commandant Instruction M16475.1B. A Categorical Exclusion Determination statement has been prepared and has been placed in permanent regulations 33 CFR 100.515 rulemaking docket.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Final Regulations

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

PART 100—[AMENDED]

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

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

2. A temporary section 100.35-0552 is added to read as follows:

§ 100.35-0552 Patapsco River, East Channel, Fort McHenry, Baltimore Maryland.

(a) *Definitions.* (1) Regulated area. The water of the Patapsco River bounded by the arc of a circle with a radius of 600 feet and with its center located at latitude 39°15'50.0" North, longitude 76°34'36.0" West.

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

(b) *Special Local Regulations.* (1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

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

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

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

(3) Any spectator vessel may anchor outside the regulated area specified in paragraph (a)(1) of these regulations, but may not block a navigable channel.

(c) *Effective Dates:* These regulations are effective from 5:30 p.m. to 9:30 p.m., September 9, 1990.

Dated: August 6, 1990.

P.A. Welling,

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

[FR Doc. 90-19014 Filed 8-13-90; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 100

[CGD 05-90-50]

Special Local Regulations for Marine Events at Septemberfest Fireworks Display, Parker Island, Little Egg Harbor, NJ

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the fireworks portion of the Septemberfest Celebration at Little Egg Harbor, New Jersey. The fireworks will be launched from Parker Island. These regulations are necessary to control spectator craft and to provide for the safety of life and property on navigable waters during the event.

EFFECTIVE DATE: These regulations are effective from 7:30 p.m. to 10:30 p.m., September 15, 1990.

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

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for these regulations and good cause exists for making them effective in less than 30 days from the date of publication. Adherence to normal rulemaking procedures would not have been possible. Specifically, the sponsor's application to hold the event was not received until July 16, 1990, leaving insufficient time to publish a notice of proposed rulemaking in advance of the event.

Drafting Information

The drafters of this notice are QM1 Kevin R. Connors, project officer, Boating Affairs Branch, Fifth Coast Guard District, and Captain Michael K. Cain, project attorney, Fifth Coast Guard District Legal Staff.

Discussion of Regulations

The area covered by the rule is the same as the permanent regulations in 33 CFR 100.514 (F.R. 25849, June 20, 1989). The fireworks portion of the Septemberfest will be launched from Parker Island, Little Egg Habor, New Jersey. These regulations are necessary to control spectator craft and to provide for the safety of life and property on navigable waters during the event. Vessels transiting the area will not be inconvenienced since the deep-water channel will remain open.

Economic Assessment and Certification

These regulations are not considered major under Executive Order 12291 on Federal Regulation or significant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact is expected to be so minimal that a full regulatory evaluation is unnecessary. Because of this minimal impact, the Coast Guard certifies that these regulations will not have a significant economic impact on a substantial number of small entities.

Federalism Assessment

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

Environmental Impact

This final rule has been thoroughly reviewed by the Coast Guard and has been determined to be categorically excluded from further environmental documentation in accordance with section 2.B.2.c of Commandant Instruction M16475.1B. A Categorical Exclusion Determination statement has been prepared and has been placed in permanent regulations 33 CFR 100.514 rulemaking docket.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Final Regulations

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

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

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

2. A temporary section 100.35-0550 is added to read as follows:

§ 100.35-0550 Septemberfest Fireworks Display; Parker Island, Little Egg Harbor, New Jersey.

(a) *Definitions*—(1) *Regulated Area.* The waters of Little Egg Harbor bounded by the arc of a circle with a radius of 1,000 feet and with its center located at latitude 39°34'18.0" North, longitude 74°14'43.0" West.

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

(b) *Special Local Regulations.* (1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

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

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

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

(3) Any spectator vessel may anchor outside of the regulated area specified in paragraph (a)(1) of these regulations, but may not block a navigable channel.

(c) *Effective Date:* These regulations are effective from 7:30 p.m. to 10:30 p.m., September 15, 1990.

Dated: August 6, 1990.

P.A. Welling,

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

[FR Doc. 90-19015 Filed 8-13-90; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3817-6]

Approval and Promulgation of Implementation Plans; Wisconsin

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Final Rule.

SUMMARY: USEPA is approving a revision to the Wisconsin State Implementation Plan (SIP) for particulate matter. The revision was necessitated by USEPA's promulgation of new National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter equal to or less than 10 micrometers (PM_{10}).

The effect of this action is to document that Wisconsin's "committal" SIP satisfies USEPA's requirements for PM_{10} for areas designated as Group II (52 FR 29385—August 7, 1987). The Group II areas committed to by Wisconsin are in the Cities of DePere, Madison, Milwaukee, Superior, and Waukesha.

DATES: This action will be effective October 12, 1990, unless notice is received on or before September 13, 1990, that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice

will be published in the Federal Register.

ADDRESSES: Copies of the SIP revision and other materials relating to this notice are available at the following addresses. (It is recommended that you telephone Maggie Greene at (312) 886–6088 before visiting the Region V office.)

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

Bureau of Air Management, Wisconsin Department of Natural Resources, P.O. Box 7921, Madison, Wisconsin 53707

Written comments should be sent to:

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

FOR FURTHER INFORMATION CONTACT: Maggie Greene, Air and Radiation Branch, U.S. Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 886–6088.

SUPPLEMENTARY INFORMATION:

I. Background

On July 1, 1987, USEPA promulgated revised NAAQS for particulate matter. In the section of the Federal Register notice, entitled "Requirements for State Implementation Plans" (52 FR 24679–82), USEPA set forth its Group II SIP development policy for development policy for PM_{10}.[1] This policy requires the State to submit either:

(1) A complete PM_{10} SIP, with accompanying modeled attainment demonstration showing attainment and maintenance for the PM_{10} standard within 3 years of the SIP's adoption, or

(2) A "committal" SIP that supplements the existing SIP with enforceable commitments to perform the actions required at 52 FR 24681 for such committal SIPs.

On April 30, 1988, the Wisconsin Department of Natural Resources (WDNR) submitted a committal SIP to USEPA for its Group II areas within the Cities of DePere, Madison, Milwaukee, Superior, and Waukesha. On March 30, 1990, WDNR submitted a committal SIP which revised slightly its April 30, 1988 commitments and included the City of Madison.[2]

II. Evaluation of Committal SIP Required Provisions for Group II Areas

USEPA's criteria for approval of PM_{10} SIPs is contained in the July 1, 1987, Federal Register notice. There are five provisions that are required by USEPA for inclusion in every State's Group II committal SIP. These provisions commit the State to perform the following activities:

(1) Gather ambient PM_{10} data, at least to an extent consistent with minimum USEPA requirements and guidance.[3]

(2) Analyze and verify the ambient PM_{10} data and report 24-hour PM_{10} NAAQS exceedances to the appropriate Regional Office within 45 days of each exceedance.

(3) When an appropriate number of verifiable 24-hour NAAQS exceedance becomes available (see section 2.0 of the PM_{10} SIP Development Guideline) or when data indicating an Annual Arithmetic Mean (AAM) above the level of the annual PM_{10} NAAQS become available, acknowledge that a nonattainment problem exists and immediately notify the appropriate Regional Office.

(4) Within 30 days of the notification referred to in (3) above, or within 37 months of promulgation of PM_{10} NAAQS, whichever comes first, determine whether the measures in the existing SIP will assure timely attainment and maintenace of the primary PM_{10} standards, and immediately notify the appropriate Regional Office.

(5) Within 6 months of the notification referred to in (4) above, adopt and submit to USEPA a PM_{10} control strategy that assures attainment as expeditiously as practicable but no later than 3 years from approval of the committal SIP.

III. Evaluation of Schedule Milestone

USEPA's policy, set forth at 52 FR 24681 (July 1, 1987), requires that committal SIPs include enforceable milestones with timely commitment dates, consistent with the State's PM10 SIP Development Plan. Wisconsin has acceptably committed to all required milestones.

IV. USEPA's Analysis and Final Action

To be approvable, PM10 committal SIPs must incorporate all five provisions enumerated at 52 FR 24681 and provide enforceable milestone commitments that ensure program implementation. Wisconsin has acceptably committed to Provisions 1, 2, 3, and 5 listed above and has provided enforceable milestones. With respect to the fourth provision, Wisconsin committed to determine the adequacy of the existing SIP by the earlier of 60 days after notification of nonattainment (instead of 30 days) or August 30, 1990. Although this exceeds the 30-day requirement for this determination, in this case, USEPA has concluded that a determination of SIP adequacy within 60 days is sufficiently timely. USEPA, therefore, finds Wisconsin's commitment to all five provisions acceptable.

A special feature of Wisconsin's commitment is an additional paragraph concerning supplementary determinations of SIP adequacy. As explained in USEPA's Technical Support Document, dated April 23, 1990, this paragraph appears to represent a commitment to provide for supplementary determinations of SIP adequacy in March 1991 and possibly March 1992, if prior submittals demonstrate that insufficient ambient PM_{10} data are available to determine attainment status. USEPA finds this additional commitment acceptable. USEPA is, thus, approving the committal SIP for Wisconsin's PM_{10} Group II areas because Wisconsin's plan commits acceptably to the five requisite provisions and to all enforceable milestones.

Because USEPA considers today's action noncontroversial and routine, it is approving it today without prior proposal. The action will become effective on October 15, 1990. However, if we receive notice by September 13, 1990 [30 days from the date of publication] that someone wishes to submit critical comments, then USEPA will publish: (1) A notice that withdraws the action, and (2) a notice that begins a new rulemaking by proposing the action and establishing a comment period. See 47 FR 27073 (June 23, 1982).

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any State Implementation Plan. Each request for revision to the State Implementation Plan shall be considered separately in the context of specific technical, economic, and environmental factors

---

[1] The primary and secondary particulate matter NAAQS are now violated when either: 1) The expected annual arithmetic mean value of PM_{10} concentrations exceed 50 micrograms per cubic meter of air (50 $\mu g/m^3$) (the annual standard), or 2) the expected number of days that the PM_{10} concentration exceeds 150 $\mu g/m^3$ is more than one per calendar year (the 24-hour standard).

[2] The Group II areas were listed at 52 FR 29365 (August 7, 1987).

[3] Section 58.13 of 40 CFR part 58 required States, within 1 year after the PM_{10} NAAQS are promulgated, to begin sampling PM_{10} every day (at least at one site) in areas with a PM_{10} nonattainment probability of 95 percent or greater, and every other day (at least at one site) in areas with a nonattainment probability between 20 and 95 percent.

and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225).

On January 6, 1989, the Office of Management and Budget waived Tables 2 and 3 SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for a period of 2 years.

Under 5 U.S.C. section 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

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

List of Subjects in 40 CFR Part 52

Air pollution control, Environmental protection, Intergovernmental relations, Particulate matter.

Dated: July 25, 1990.

David Ullrich,

Acting Regional Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS; Wisconsin—Subpart YY

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

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

Authority: 42 U.S.C. 7301–7642.

2. Section 52.2584 is amended by adding paragraph (b) to read as follows:

§ 52.2584 Control strategy; Particulate matter.

* * * * *

(b) Approval—On April 30, 1988 and March 30, 1990, the State of Wisconsin submitted committal SIPs for particulate matter with an aerodynamic diameter equal to or less than 10 micrometers (PM_{10}) for the Group II areas within the Cities of DePere, Madison, Milwaukee, Superior, and Waukesha. This committal SIP meets all of the requirements identified in the July 1, 1987, promulgation of the SIP requirements for PM_{10}.

[FR Doc. 90–18484 Filed 8–13–90; 8:45 am]

BILLING CODE 6560–50–M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–25

[FPMR Amdt. E–266]

Federal Property Management; Office Machines Use and Replacement Standards and Purchase or Lease Determination Guidelines

AGENCY: Federal Supply Services, GSA.

ACTION: Final rule.

SUMMARY: This regulation provides changes in use standards and replacement standards for office machines and in the guidelines for making purchase or lease determinations. The changes contained in this regulation are necessary to reflect the types of office machines that are currently available and to provide for the use of current methods for determining if an item should be purchased or leased.

EFFECTIVE DATE: August 14, 1990.

FOR FURTHER INFORMATION CONTACT: George Hauswirth, Operations Management Division (703–557–2566).

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

List of Subjects in 41 CFR Part 101–25

Government property management.

Accordingly, 41 CFR Chapter 101 is amended as set forth below.

PART 101–25—GENERAL

1. The authority citation for part 101–25 continues to read as follows:

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

Subpart 101–25.3—Use Standards

2. Section 101–25.302–3 is revised to read as follows:

§ 101–25.302–3 Electronic typewriters.

(a) Each executive agency shall establish definitive policies, procedures and standards for the use of electronic typewriters in consonance with the requirement to provide each typing station with the lowest cost electronic typewriter that will meet minimum needs. Electronic typewriters with specialized, elaborate, or sophisticated features shall be acquired only if they are the lowest priced available, with or without those features, or if those features are indispensable to perform the required work. Approval for acquiring typewriters in the latter category shall be granted only as provided in paragraph (b) of this section.

(b) Before the acquisition of typewriters with special features necessary to perform the required work, a written justification approved by the head of the agency or an authorized representative of the head of the agency shall be made a part of the purchase file.

3. Section 101–25.302–4 is removed and reserved as follows:

§ 101–25.302–4 [Reserved]

4. Section 101–25.302–6 is revised to read as follows:

§ 101–25.302–6 Electronic office machines.

Each agency shall establish definitive policies, procedures, and standards for the use of electronic office machines. Electronic office machines include calculators (programmable and nonprogrammable, portable and desk top, printing, display, and combination print/display types); accounting machines (electronic programmable, nonwriting (numeric), and writing (alphanumeric); and cash registers (electronic terminals). Battery operated machines shall be used if electric current is not conveniently available or portability is required, if reasonable protection is desired against emergency shutdown (e.g., continued power failure or civil defense dispersal), or when limited use does not warrant electrically operated machines.

Subpart 101–25.4—Replacement Standards

5. Section 101–25.403 is amended by revising the introductory text in paragraph (a) and paragraph (c)(4), as follows:

§ 101–25.403 Office machines.

* * * * *

(a) Electrically powered office machines such as typewriters and desk calculators under 12 years of age or manually operated office machines

under 15 years of age shall not be replaced unless:

* * * * *

(c) * * *

(4) When a machine lacks essential features required in the performance of a particular task which is continuing in nature or when a lack of features seriously inhibits office efficiency and other suitable machines are not available.

Subpart 101-25.5—Guidelines for Making Purchase or Lease Determinations

6. Section 101–25.502–2 is amended by revising paragraph (b) and adding paragraph (c), as follows:

§ 101-25.502-2 Lease method.

* * * * *

(b) The lease/buy cost comparison method described in OMB Circular A–104 is the preferred cost comparison method. Other methods (life-cycle cost, break even analysis, etc.) may be used in accordance with normal agency procedures. (Copies of OMB Circular A–104 may be obtained from the Executive Office of the President Publications Service, 725 17th Street, NW., Room 2200, Washington, DC 20503.)

(c) A reevaluaton of the cost advantage of the lease over the exercise of purchase option credits or purchase of new replacement equipment should be performed before the renewal of the equipment lease.

7. Section 101–25.503 is removed and reserved as follows:

§ 101-25.503 [Reserved]

8. Section 101–25.504 is amended by revising paragraphs (a) and (c) as follows and by removing paragraph (d) and the chart at the end of paragraph (d).

§ 101-25.504 Office copying machines.

(a) When selecting office copying machines, agencies shall take full advantage of any purchase options that may be available under the terms and conditions of the applicable Federal Supply Schedule contracts. Rental contracts provide for receiving credits, usually up to a certain specified limit, which may be applied towards the purchase price of the equipment being rented. Once the maximum credits have been accumulated, agencies should consider purchasing the equipment, because additional rental payments will not further reduce the option to purchase price.

* * * * *

(c) Before acquisition of equipment, a comparison shall be made of the relative costs of acquiring the equipment by use of the methods described in § 101–25.502–1 and § 101–25.502–2. The cost comparison shall be based on the best available information and estimates, including those factors in § 101–25.502–1 and any other factors peculiar to office copying machines.

Dated: June 15, 1990.

Rebekah T. Johnson,

Acting Administrator for General Services.

[FR Doc. 90–18579 Filed 8–13–90; 8:45 am]

BILLING CODE 6820–24–M

Proposed Rules

Federal Register
Vol. 55, No. 157
Tuesday, August 14, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Summary Notice No. PR-90-21]

Petition for Rulemaking; Receipt and Disposition

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before: October 15, 1990.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-10), Petition Docket No. _____ 800 Independence Avenue SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-10), room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-3132.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on August 6, 1990.

Denise Donohue Hall,

Manager, Program Management Staff, Office of the Chief Counsel.

Petitions for Rulemaking

Docket No.: 26290.
Practitioner: Air Transport Association.
Regulations affected: 14 CFR 25.791 and 121.317.
Description of petition: To amend §§ 25.791 and 121.317 to allow use of placards as the sole means of notifying passengers of smoking restrictions, and thereby allowing removal of illumination signs, on airplanes used exclusively on non-smoking flights.
Petitioner's reason for the request: The petitioner believes that amendment of the rules to allow selected avoidance of illumination systems will allow operators to procure and maintain airplanes at a lower cost and will thereby contribute to the economical provision of air service to the public.

[FR Doc. 90-19061 Filed 8-13-90; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 90-NM-138-AD]

Airworthiness Directives; Aerospatiale Model ATR42-300 and ATR42-320 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain Aerospatiale Model ATR42-300 and ATR42-320 series airplanes, which would require modification of the emergency lighting control wiring. This proposal is prompted by reports which indicate that the emergency lighting system will not illuminate automatically if normal airplane power is lost. This condition, if not corrected, could result in failure of the emergency lights to operate when required in an emergency situation.

DATES: Comments must be received no later than October 3, 1990.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 90-NM-138-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. The applicable service information may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Huhn, Standardization Branch, ANM-113; telephone (206) 431-1950. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

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 specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rule Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to

Docket Number 90–NM–138–AD." The post card will be date/time stamped and returned to the commenter.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority of France, in accordance with existing provisons of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on certain Aerrospatiale ATR42–300 and ATR42–320 series airplanes. There have been reports which indicate that the emergency lighting system will not illuminate automatically if normal airplane power is lost. This condition, if not corrected, could result in failure of the emergency lights to operate when required in an emergency situation.

Aerospatiale has issued Service Bulletin ATR42–33–0017, Revision 1, dated March 2, 1990, which describes procedures for modifying the emergency lighting control wiring to ensure automatic emergency lighting when the flight compartment control switch is in the "ARM" position in case of the loss on normal electrical power. The French DGAC has classified this service bulletin as mandatory, and has issued Airworthiness Directive 90–029–027(B) addressing this subject.

This airplane model is manufactured in France and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, an AD is proposed which would require modifying the emergency lighting control wiring in accordance with the service bulletin previously described.

It is estimated that 56 airplanes of U.S. registry would be affected by this AD, that it would take approximately 6 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. The required parts will be supplied to the operators by the manufacturer at no cost. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $13,440.

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

For the reasons discussed above, I certify that this proposed regulation (1) Is not a "major rule" under Executive Order 12291, (2) is not a "significant rule" under 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 evalaution prepared for this action 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.

The Proposed Amendment

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

PART 39—[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:

Aerospatiale:

Applies to Model ATR42–300 and ATR42–320 series airplanes, Serial Numbers 003 through 150, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To ensure the operation of the emergency lighting system when required during an emergency situation, accomplish the following:

A. Within 10 minutes after the effective date of this AD, modify the emergency lighting control wiring in Zones 212, 210, and 214, in accordance with the Accomplishment Instructions of Aerospatiale Service Bulletin ATR–33–0017, Revision 1, dated March 2, 1990.

B. Immediately after installing the modification, perform an operational test of the emergency lighting system, in accordance with paragraph D. of Aerospatiale Service Bulletin ATR42–33–0017, Revision 1, dated March 2, 1990.

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, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Standardization Branch, ANM–113, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Manager, Standardization Branch, ANM–113.

D. 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 Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

Issued in Renton, Washington, on August 2 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90–19052 Filed 8–13–90; 8:45 am]

BILLING CODE 4910–13–M

---

14 CFR Part 39

[Docket No. 90–NM–132–AD]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to supersede an existing airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, which currently requires a one-time external detailed visual and external high frequency eddy current inspection to detect cracks at certain stringer fastener locations; repair, if necessary; and reporting of cracks detected. This action would require repetitive inspections and a modification in certain areas where reports indicate that cracking was prevalent. This proposal is prompted by reports of cracks submitted in response to the existing AD. This condition, if not corrected, could result in rapid decompression of the airplane.

DATES: Comments must be received no later than October 4, 1990.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM–103, Attention: Airworthiness Rules Docket No. 90–NM–132–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle,

Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Steven C. Fox, Airframe Branch, ANM-120S; telephone (206) 227-2777. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

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 specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 90-NM-132-AD." The postcard will be date/time stamped and returned to the commenter.

Discussion

On November 9, 1989, the FAA telegraphically issued AD 89-23-53, Amendment 39-6524 (55 FR 7696, March 5, 1990), to require a one-time external detailed visual and external high frequency eddy current inspection to detect cracks of the fuselage skin between body station (BS) 220 and BS 520, from stringer (S)-6 to S-20, and repair, if necessary. The AD also requires submitting a report to the FAA of all cracks detected as a result of the required inspection. That action was prompted by a report from an operator who found multiple longitudinal skin cracks. Failure to detect and repair cracks could result in rapid decompression of the airplane.

AD 89-23-53 was considered to be interim action. The FAA indicated that additional rulemaking action may be necessary based on reports received of the inspection results.

Since issuance of AD 89-23-53, the FAA has received reports from operators who, after accomplishing the inspection required by that AD, found significant cracking in certain areas, specifically in the area between BS 340 and BS 520, from S-6 to S-14. There were no reports of cracking found in the area between BS 220 and BS 520, S-15 to S-20. Based on these reports, the FAA has determined that additional inspections and modifications are warranted.

The FAA has reviewed and approved Boeing Alert Service Bulletin 747-53A2321, dated October 31, 1989, which describes inspection procedures to detect cracks in the fuselage skin between BS 220 and BS 520, from S-6 to S-14, and repair, if necessary. Additionally, this service bulletin describes a modification which consists of replacing the skin panel from BS 340 to BS 520, from S-6 to S-14, with a new skin panel that was manufactured utilizing improved bonding process.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would supersede AD 89-23-53 with a new AD that would require repetitive inspections for cracking of the fuselage skin panels; repair, if necessary; and modification, in accordance with the service bulletin previously described. This action does not include inspection/modification of the area between BS 220 and BS 520, from S-15 to S-20, since no cracks were found in this area.

There are approximately 430 Model 747 series airplanes of the affected design in the worldwide fleet. It is estimated that 174 airplanes of U.S. registry would be affected by this AD, that it would take approximately 800 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Required parts are estimated to cost $20,000 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $9,048,000.

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

For the reasons discussed above, I certify that this proposed regulation: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under 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 Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—[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 superseding AD 89-23-53, Amendment 39-6524 (55 FR 7696, March 5, 1990), with the following new airworthiness directive:

Boeing: Applies to Model 747 series airplanes, line numbers 001 through 430, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent rapid decompression of the airplane, accomplish the following:

A. Prior to the accumulation of 12,000 flight cycles or within the next 1,000 flight cycles after the effective date of this AD, whichever occurs later, unless previously accomplished within the last 1,000 flight cycles, conduct an external detailed visual and external high frequency eddy current inspection for cracks of the fuselege skin from body station (BS) 220 to BS 520 left and right hand side of the airplane between stringer (S)-6 and S-14, in accordance with Boeing Alert Service Bulletin 747-53A2321, dated October 31, 1989. Repeat the inspections thereafter at intervals not to exceed 2,000 flight cycles.

B. If cracks are detected, repair prior to further flight, in accordance with Boeing Alert Service Bulletin 747-53A2321, dated October 31, 1989.

C. Prior to the accumulation of 20,000 flight cycles, or within the next 4 years after the effective date of this AD, whichever occurs later, perform the terminating modification of the skin panel from BS 340 to BS 520, S–6 to S–14, in accordance with Boeing Alert Service Bulletin 747–53A2321, dated October 31, 1989. (The modification consists of replacing the skin panel with a new skin panel which was manufactured utilizing the improved hot phosphoric anodize bonding process.)

D. Replacement of the skin panel required by paragraph C. of this AD constitutes terminating action for the inspections from BS 340 to BS 520 required by paragraph A. of this AD. The inspections from BS 220 to BS 340 required by paragraph A. of this AD are to be continued.

E. Flight cycles conducted at 2.0 PSI or less cabin differential pressure need not be counted for the purpose of this airworthiness directive.

F. For Model 747SR airplanes only, the threshold and repetitive inspection intervals specified herein may be multiplied by the 1.2 adjustment factor based on continued mixed operation at lower cabin pressure differentials.

G. 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 (ACO), FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Seattle ACO, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrent to the Seattle ACO.

H. 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 Airplane Group, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

Issued in Renton, Washington, on August 3, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90–19053 Filed 8–13–90; 8:45 am]

BILLING CODE 4910–13–M

---

14 CFR Part 39

[Docket No. 90–NM–135–AD]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain Model 747 series airplanes, which would require modification of hydraulic lines in the elevator control system. This proposal is prompted by a report that damage to the horizontal stabilizers of the early production Model 747 airplanes could potentially cause the loss of fluid from all four hydraulic systems. This condition, if not corrected, could result in a loss of the primary flight controls in the event of major structural damage.

DATES: Comments must be received no later than October 4, 1990.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM–103, Attention: Airworthiness Rules Docket No. 90–NM–135–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Letcher, Systems & Equipment Branch, ANM–1305, telephone (206) 227–2670. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington, 98055–4056.

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 specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained on this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 90–NM–135–AD." The post card will be date/time stamped and returned to the commenter.

Discussion

The loss of a Model 747 series airplane in 1985 prompted the FAA to investigate areas of the aircraft where structural damage can result in the loss of fluid from all hydraulic systems. In the 1985 accident, all four hydraulic system lines in the vertical stabilizer were severed due to decompression loads that occurred when the aft pressure bulkhead failed. This resulted in loss of the primary flight controls and subsequent loss of the airplane. After the accident, the FAA issued Airworthiness Directive 87–12–04, Amendment 39–5635 (52 FR 21243, June 5, 1987), to require certain modifications to the hydraulic lines in the vertical stabilizer of the Model 747 to prevent loss of all hydraulic fluid in the event of damage to the vertical stabilizer.

Since that time, Boeing has advised that damage to the horizontal stabilizer can also result in the loss of all four hydraulic systems on certain early Model 747 series airplanes. Hydraulic systems numbers 2 and 3 on airplane line positions 1 through 39 are capped near the outboard elevator control packages on the horizontal stabilizer. These lines expose systems 2 and 3 to damage in the event that major structural damage of the left and right horizontal stabilizers occurs. Such damage could result in loss of all hydraulics, unless these unused lines are removed.

The FAA has reviewed and approved Boeing Service Bulletin 747–29A2063, Revision 5, dated June 7, 1990, which describes instructions for modifying the hydraulic lines of the elevator control system on airplane line numbers 1 through 39. This modification will prevent the loss of fluid from all four hydraulic systems in the event of structural damage to the horizontal stabilizer, and subsequent loss of the primary flight controls.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require modification of the hydraulic lines in the elevator control

system in accordance with the service bulletin previously described.

There are approximately 34 Model 747 series airplanes of the affected design in the worldwide fleet. It is estimated that 20 airplanes of U.S. registry would be affected by this AD, that it would take approximately 60 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. The cost of required parts is estimated to be $1,356 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $75,120.

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

For the reasons discussed above, I certify that this proposed regulation: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under 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 Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—[AMENDED]

1. The authority citation of 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:

Boeing: Applies to Model 747 series airplanes, line numbers 1 through 39, certificated in any category. Compliance required within the next 4,500 hours time-in-service after the effective date of this AD, unless previously accomplished.

To prevent the loss of the airplane primary flight controls due to loss of hydraulic fluid from all four hydraulic systems, accomplish the following:

A. Modify the hydraulic lines in the elevator control system in accordance with Section III of the Accomplishment Instructions, Steps G through H, of Boeing Alert Service Bulletin 747-29A2063, Revision 5, dated June 7, 1990.

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 (ACO), FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Seattle ACO, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Seattle ACO.

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 Airplane Group, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

Issued in Renton, Washington, on August 3, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-19054 Filed 8-13-90; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 90-NM-144-AD]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, which would require a one-time detailed visual and high frequency eddy current inspection around the fasteners attaching the skin to the stringers, between body station (BS) 520 and BS 900 at stringer (S)-6 and S-14, repair if necessary, and a reporting of cracks. This proposal is prompted by evidence of disbonding in the skin panels and service experience indicating that similarly designed skin structure has experienced cracking. This condition, if not corrected, could result in sudden loss of cabin pressurization.

DATES: Comments must be received no later than October 9, 1990.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 90-NM-144-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Steven C. Fox, Airframe Branch, ANM-120S; telephone (206) 227-2777. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

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 specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 90-NM-144-AD." The

post card will be date/time stamped and returned to the commenter.

Discussion

On November 9, 1989, the FAA telegraphically issued AD 89-23-53, Amendment 39-6524 (55 FR 7696, March 5, 1990). That AD requires a one-time external detailed visual and external high frequency eddy current inspection to detect cracks of the fuselage skin from body station (BS) 220 to BS 520 at certain stringer fastener locations and repair, if necessary. Operators were to report any findings of cracks to the FAA. That action was prompted by reports from an operator who found multiple longitudinal skin cracks. Such cracking, if not detected and corrected, could lead to sudden loss of cabin pressurization.

Based on the reports of cracking obtained via that AD, the FAA has determined that, since the fuselage skin from BS 520 to BS 900 was manufactured with an identical skin bonding process to that from BS 220 to BS 520, was constructed similarly, and was designed with similar stresses, it is possible that skin cracking could occur there as well. The manufacturer has examined approximately 20 airplanes in this area and has found no cracks to date; however, evidence has indicated that some skin panel disbonding exists. The skin panels found disbonded were manufactured using a surface preparation etching process later found to cause the bond to be susceptible to delamination in the forward section of the Model 747 airplane, as well as the Model 737 airplane (on which several rulemaking actions have already been issued). Such delamination could eventually lead to cracking.

Although the manufacturer has not currently issued service information specifically describing procedures to inspect for cracks in the fuselage skin panel between BS 520 and BS 900 at stringer (S)-6 and S-14 on Boeing Model 747 airplanes, the inspection procedures defined in Boeing Alert Service Bulletin 747-53A2321, dated October 31, 1989, would be applicable to the requirements of this proposed rule. The FAA has reviewed and approved this alert service bulletin.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require a one-time external detailed visual and external high frequency eddy current inspection for cracking of the fuselage skin panels from BS 520 to BS 900 at S-6 and S-14, and repair, if necessary. Operators would be required to submit a report of their inspection findings to the FAA.

This is considered to be interim action until the findings from the reporting requirement of this AD action can be analyzed by the FAA. The FAA may consider further rulemaking to address these findings.

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB Control Number 2120-0056.

There are approximately 430 Model 747 series airplanes of the affected design in the worldwide fleet. It is estimated that 174 airplanes of U.S. registry would be affected by this AD, that it would take approximately 800 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $5,568,000.

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 Federal Assessment.

For the reasons discussed above, I certify that this proposed regulation; (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under 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 Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Administration proposes to amend 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 Pub. L. 97-499, 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 747 series airplanes, line numbers 001 through 349, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent sudden loss of cabin pressurization, accomplish the following:

A. Prior to the accumulation of 15,000 flight cycles or within the next 1,000 flight cycles after the effective date of this AD, whichever occurs later, conduct a one-time external detailed visual and external high frequency eddy curent inspection for cracks of the fuselage skin from body station (BS) 520 to BS 900, left- and right-hand side of the airplane, between stringer (S)-6 and S-14, in accordance with the inspection methods defined in Boeing Alert Service Bulletin 747-53A2321, dated October 31, 1989.

B. If cracks are detected, repair prior to further flight, in accordance with the Boeing 747 Structural Repair Manual (SRM), Section 53-30-03.

C. Within 30 days after completion of the inspections required by paragraph A. of this AD submit report of findings of cracks, to the Manager, Seattle Aircraft Certification Office, ANM-100S, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The report must include the line number of the airplane inspected, the number of flight cycles, the number of flight hours, and the size and location of the cracks.

D. Flight cycles of 2.0 psi or less cabin diferential pressure need not be counted for purpose of this airworthiness directive.

E. For Model 747SR series airplanes only, the threshold and repeat interval specified herein may be multiplied by the 1.2 adjustment factor based on continued mixed operation at lower cabin pressure differentials.

F. Installation of new skin panels from BS 520 to BS 900, S-6 to S-14, with an improved hot phosphoric anodized bonding process, constitutes terminating action for the inspection defined in paragraph A. of this AD.

G. 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 (ACO), FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager of the Seattle ACO and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comment or concurrent to the Seattle ACO.

H. 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 Airplane Group, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

Issued in Renton, Washington, on August 6, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-19055 Filed 8-13-90; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 90-NM-122-AD]

Airworthiness Directives; British Aerospace Model DH.125-1A Series Airplanes, Equipped With Hawker Siddeley Dynamics Air Conditioning System and Rolls Royce Viper Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain British Aerospace Model DH.125-1A series airplanes, which would require a one-time detailed visual inspection to detect damage in the rear pressure bulkhead, a subsequent dye penetrant inspection and dial indicator measurement to determine the extent of damage, and repair, if necessary; and an adjustment of the clearance between the air conditioning duct clamp and the rear pressure bulkhead. This proposal is prompted by reports of chafing between the air conditioning duct and the rear pressure bulkhead. This condition, if not corrected, could lead to rupture of the rear pressure bulkhead and subsequent rapid decompression of the airplane.

DATES: Comments must be received no later than October 3, 1990.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 90-NM-122-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. The applicable service information may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041-0414. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Standardization Branch, ANM-113; telephone (206) 277-2148. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

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 indentify 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 specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 90-NM-122-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

The United Kingdom Civil Aviation Authority (CAA), in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on certain British Aerospace Model DH.125-1A series airplanes. There have been recent reports of chafing between the air conditioning duct and the rear pressure bulkhead due to insufficient clearance between the duct clamp and the rear pressure bulkhead. This condition, if not corrected, could lead to rupture of the rear pressure bulkhead and subsequent rapid decompression of the airplane.

British Aerospace has issued Service Bulletin 53-71, dated November 1, 1989, which describes procedures for a detailed visual inspection to detect chafing damage in the aft face of the rear pressure bulkhead, a subsequent dye penetrant inspection and dial indicator measurement to determine the extent of damage, and repair, if necessary. The United Kingdom CAA has classified this service bulletin as mandatory.

British Aerospace has advised the FAA and a 3/4-inch clearance is required between the aft pressure bulkhead and the clamp at the ducting joint where the chafing occurs, and that the clearance can be obtained by rotating and adjusting the duct position.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of the same design registered in the United States, an AD is proposed which would require a one-time detailed visual inspection to detect chafing between the air conditioning duct and the rear pressure bulkhead, a subsequent dye penetrant inspection and dial test indicator measurement to determine the extent of damage, and repair, if necessary, in accordance with the service bulletin previously described; and an adjustment of the clearance between the air conditioning duct clamp and the rear pressure bulkhead to obtain a clearance of 3/4 inch.

It is estimated that 3 airplanes of U.S. registry would be affected by this AD, that it would take approximately one manhour per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $120.

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

For the reasons discussed above, I certify that this proposed regulation: (1) Is not a "major rule" under Exceutive 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 Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—[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:

British Aerospace: Applies to Model DH.125–1A series airplanes, equipped with Hawker Siddeley Dynamics Air Conditioning System and Rolls Royce Viper Engines, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent chafing between the air conditioning duct and the rear pressure bulkhead, and subsequent rapid decompression of the airplane, accomplish the following:

A. Within 30 days after the effective date of this AD, perform a detailed visual inspection for chafing on the aft face of the rear pressure bulkhead, in accordance with the Accomplishment Instructions of British Aerospace Service Bulletin 53–71, dated November 1, 1989.

B. If defects are found, prior to further flight, perform a dye penetrant inspection to detect cracks in the vicinity of the affected area; and perform a dial test indicator measurement to determine the depth of damage in the rear pressure bulkhead, in accordance with British Aerospace Service Bulletin 53–71, dated November 1, 1989.

1. If the damage to the rear pressure bulkhead is less than 0.003 inch deep, prior to further flight, carefully blend out, polish, and then restore protective treatment in accordance with the service bulletin.

2. If the damage to the rear pressure bulkhead is greater than 0.003 but less than 0.010 inch deep, within 100 landings, repair in accordance with Appendix B of the service bulletin.

3. If the damage to the rear pressure bulkhead is greater than 0.010 inches deep, prior to further flight, repair in accordance with Appendix B of the service bulletin.

C. Within 30 days after the effective date of this AD, adjust the clearance between the air conditioning duct clamp and the rear pressure bulkhead so there is at least a ¾ inch clearance. This can be accomplished by rotating and adjusting the duct position.

D. 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, Standardization Branch ANM–113, FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Standardization Branch, ANM–113, and a copy sent to the cognizant Principal Inspector (PI). The PI will then forward comments or concurrence to the Manager, Standardization Branch, ANM–113.

E. 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 British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041–0414. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

Issued in Renton, Washington, on August 2, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90–19056 Filed 8–13–90; 8:45 am]

BILLING CODE 4910–13–M

---

14 CFR Part 39

[Docket No. 90–NM–139–AD]

Airworthiness Directives; British Aerospace Model BAC 1–11 200 and 400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to certain British Aerospace Model BAC 1–11 200 and 400 series airplanes, which would require incorporation of certain structural modifications. This proposal is prompted by reports of recent incidents involving fatigue cracking and corrosion in transport category airplanes that are approaching or have exceeded their economic design goal. These conditions, if not corrected, could result in a degradation in the structural capabilities of the affected airplanes. This action also reflects the FAA's decision that long term continued operational safety should be assured by actual modification of the airframe rather than repetitive inspections.

DATES: Comments must be received no later than October 9, 1990.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM–103, Attention: Airworthiness Rules Docket No. 90–NM–139–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. The applicable service information may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041–0414. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Standardization Branch, ANM–113; telephone (206) 227–2148. Mailing address: FAA, Northwest Mountain Region, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written daa, 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 specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rule Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to

Docket Number 90–NM–139–AD." The post card will be date/time stamped and returned to the commenter.

Discussion

In April 1988, a high-cycle Boeing Model 737 suffered major structural damage in flight. Investigation revealed that the airplane had numerous fatigue cracks and a great deal of corrosion. Subsequent inspections conducted by the operator on the high-cycle airplanes in its fleet revealed that two other airplanes had extensive fatigue cracking and corrosion. These airplanes were taken out of service.

In June 1988, the FAA sponsored a conference on aging airplanes. It became obvious, because of the huge increase in air travel, the relatively slow pace of new airplane production, and the apparent economic feasibility of operating older technology airplanes, that older airplanes will continue to be operated rather than be retired. Because of the problems revealed by the accident described above, it was generally agreed that increased attention needed to be focused on this aging fleet and maintaining its continued operational safety.

The Air Transport Association (ATA) of America and the Aerospace Industries Association (AIA) of America are committed to identifying and implementing procedures to ensure continuing structural airworthiness of aging transport category airplanes. An Aging Aircraft Task Force, with representatives from the aircraft operators, manufacturers, regulatory authorities, and other aviation representatives, was established in August 1988. The objective of the Task Force was to sponsor "Working Groups" to (1) Select service bulletins, applicable to each airplane model in the transport fleet, to be recommended for mandatory modification of aging airplanes, (2) develop corrosion-directed inspections and prevention programs, (3) review the adequacy of each operator's structural maintenance program, (4) review and update the Supplemental Structural Inspection Documents (SSID), and (5) assess repair quality.

The working group assigned to review Model BAC 1–11, the BAC 1–11 Structures Task Unit (STU), included personnel from British Aerospace, the United Kingdom Civil Aviation Authority (CAA), the FAA, and various U.S. and foreign operators of Model BAC 1–11 series airplanes. The STU completed its work on Item (1), above, in December 1989; its proposal is contained in British Aerospace Alert Service Bulletin 5–A–PM5995, Issue No. 2, dated July 1, 1990. The United Kingdom CAA has classified this service bulletin as mandatory.

This service bulletin references modifications described in 15 separate service bulletins and recommends they be incorporated in the applicable Model BAC 1–11 series airplanes. These structural modifications consist of modifications of the landing gears, wings, pressure cabin, passenger and service doors, and empennage. Completing these modifications will reduce the possibility for major structural failure.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since fatigue cracking and corrosion is likely to exist or develop on other airplanes of this same type design in the United States, an AD is proposed which would require modifications in accordance with the service bulletin previously described.

The proposed compliance time for implemenation of the mandatory structural modifications is upon reaching a certain "not exceed time" specified in the service bulletin, or within 15 months, whichever occurs later. This time interval was based upon the ability of the manufacturer to provide the parts necessary for the modification, and the time necessary to incorporate the modifications.

This proposal does not address 3 of the 15 service bulletins listed in Table 1 of British Aerospace Alert Service Bulletin 5–A–PM5995 (Item 6 relating to strengthened horizontal members on the rear pressure bulkhead door, Item 12 relating to improved link pivot bolts for the tailplane stabilizing linkage, and Item 13 relating to a reinforced fin top rib actuator fitting.) Item 6 is not included because the service bulletin for the modification was not issued at the time this proposal was drafted. Items 12 and 13 are not included since existing Airworthiness Directives 67–15–01 and 67–14–04, respectively, already require the modifications to be installed.

This is considered to be interim action. The manufacturer is currently developing additional modifications. Once these are developed, the FAA may consider further rulemaking to revise this AD to require additional necessary action.

It is estimated that 70 airplanes of U.S. registry would be affected by this AD, that it would take approximately 387 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. The estimated cost for required parts and modification kits is $10,315. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $1,805,650.

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

For the reasons discussed above, I certify that this proposed regulation (1) Is not a "major rule" under Executive Order 12291, (2) is not a "significant rule" under 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 Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—[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:

British Aerospace: Applies to Model BAC 1–11 200 and 400 series airplanes, as listed in British Aerospace Service Bulletin 5–A–PM5995, Issue 2, dated July 2, 1990, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent reduced structural integrity of the airplane, accomplish the following:

A. In accordance with the schedule below, install the structural modifications listed in each Item, except Items 6, 12, and 13, in Table 1 of British Aerospace Alert Service Bulletin 5–A–PM5995, Issue No. 2, dated July 1, 1990.

1. Accomplish the modifications at the later of the following:

a. Prior to reaching the "Not Exceed Time" interval specified in Table 1 of the alert service bulletin; or

b. Within 15 months after the effective date of this AD.

2. The modifications shall be done in accordance with the appropriate service bulletin specified for each Item in Table 1, listed under "Service Bulletin No."

Note: Item 6 in Table 1 of British Aerospace Alert Service Bulletin 5-A-PM5995 is not included in the proposed rule because the service bulletin was not available at the time the proposal was issued; Item 12 is required by AD 67-15-01, Amendment 39-401; and Item 13 is required by AD 67-14-04, Amendment 39-397.

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, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Standardization Branch, ANM-113, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Manager, Standardization Branch, ANM-113.

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 British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041-0414. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

Issued in Renton, Washington, on August 6, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-19057 Filed 8-13-90; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 90-NM-140-AD]

Airworthiness Directives; Fokker Model F-28 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to supersede an existing airworthiness directive (AD), applicable to certain Fokker Model F-28 series airplanes, which currently requires repetitive eddy current inspections to detect cracks in the fuselage lap joint at stringer 73 between frame 5305 and frame 9305, and repair, if necessary. Cracking in this area, if not corrected, could result in reduced structural integrity of the fuselage. This action would require a permanent repair of the lap joint at stringer 73 between frame 4900 and frame 9805, and would terminate the requirement for the repetitive inspections. This proposal is prompted by the development of a permanent lap joint repair scheme.

DATES: Comments must be received no later than October 9, 1990.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 90-NM-140-AD, 1601 Lind Avenue, SW., Renton, Washington, DC 98055-4056. The applicable service information may be obtained from Fokker Aircraft USA, Inc., 1199 N. Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue, SW, Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Huhn, Standardization Branch, ANM-113; telephone (206) 227-2141. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

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 specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 90-NM-140-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

On July 24, 1989, the FAA issued AD 89-17-02, Amendment 39-6284 (54 FR 31808, August 2, 1989), to require repetitive eddy current inspections to detect cracks in the fuselage lap joint at stringer 73 between frame 5305 and frame 9305, and repair, if necessary. That action was prompted by reports which indicated that the lap joint exhibited visible cracks, as well as cracks extending from the dimpled rivet holes for relatively long distances, which were not visible from the outside. This condition, if not corrected, could result in reduced structural capability of the fuselage and subsequent decompression of the airplane.

Since issuance of that AD, Fokker has issued Service Bulletin F28/53-95, Revision 1, dated February 16, 1990, which describes procedures for a permanent repair of the lap joint at stringer 73 between frames 4900 and 9805. This repair consists of cutting out the lap joint and installing a repair plate on the outside of the fuselage covering the lap joint. This modification terminates the need for the repetitive inspections and the temporary repair scheme (addressed in the previously issued AD). The Rijksluchtvaartdienst (RLD), which is the airworthiness authority of the Netherlands, has classified this service bulletin as mandatory and has issued Airworthiness Directive BLA No. 90-006, Issue 2, addressing this subject.

This airplane model is manufactured in the Netherlands and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, an AD is proposed which would supersede AD 89-17-02 with a new airworthiness directive that would require repair of the lap joint at stringer 73 between frames 4900 and 9805 in accordance with the service bulletin previously described.

This proposal would also add airplanes Serial Numbers 11003, 11004, 11006, 11991, and 11992 to the applicability of the rule. These airplanes were not included in the previous AD, since they have a different lap joint construction at stringer 73. However, it has since been determined that these airplanes are subject to the same cracking conditions as the other airplanes previously addressed, and the inspections and modification are, therefore, necessary. The inspections of these serial number airplanes are currently required as part of the Model F-28 Supplemental Inspection Program (SIP), and AD 89-07-16 RI, Amendment 39-6444 (55 FR 266, January 4, 1990).

The degree of assurance necessary as to the adequacy of inspection needed to maintain the safety of the transport airplane fleet, coupled with a better understanding of the human factors associated with numerous repetitive inspections, has caused the FAA to place less emphasis on repetitive inspections and more emphasis on design improvements and material replacement. Thus, in lieu of its previous position of continual inspection, the FAA has decided to require, whenever practicable, airplane modifications necessary to remove the source of the problem addressed. The proposed modification requirements of this action are in consonance with that policy decision.

It is estimated that 48 airplanes of U.S. registry would be affected by this AD, that it would take approximately 260 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. The estimated cost for required parts is $3,165. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $651,120.

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

For the reasons discussed above, I certify that this proposed regulation (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under 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 Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—[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 superseding Amendment 39-6284 (54 FR 31808, August 2, 1989), AD 89-17-02, with the following new airworthiness directive:

Fokker: Applies to Model F-28 series airplanes, Serial Numbers 11003 to 11241, inclusive, and 11991 and 11992, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent reduced structural integriy of the fuselage, accomplish the following:

A. For airplanes Serial Numbers 11008 through 11241: Inspect the fuselage lap joint at stringer 73 between frames 5305 and 9305, in accordance with Part 1 of Fokker Service Bulletin F-28/53-A94, Revision 1, dated July 5, 1989, and in accordance with the following schedule:

1. For airplanes that have accumulated 32,000 landings or more as of August 18, 1989 (the effective date of Amendment 39-6284, AD 89-17-02), inspect within 2 days after August 18, 1989.

2. For airplanes that have accumulated fewer than 32,000 landings as of August 18, 1989, inspect within 60 days after August 18, 1989, or prior to the accumulation of 20,000 landings, whichever occurs later.

B. Repeat the inspections required by paragraph A. of this AD at intervals not to exceed 1,000 landings.

C. If cracks are found, repair prior to further flight, in accordance with Part 2 of Fokker Service Bulletin F28/53-A94, Revision 1, dated July 5, 1989. After repair, continue to inspect in accordance with Part 1 of the service bulletin, at intervals not to exceed 1,000 landings.

D. Replace the lap joint at stringer 73 between frames 4900 through 9805, in accordance with the accomplishment instructions in Fokker Service Bulletin F28/53-95, Revision 1, dated February 16, 1990, according to the schedule below. Accomplishment of this modification terminates the requirement for the repetitive inspections required by paragraphs B. and C. of this AD.

1. For airplanes, Serial Numbers 11008 through 11241, inclusive: prior to the accumulation of 30,000 landings, or within one year after the effective date of this AD, whichever occurs later.

2. For airplanes, Serial Numbers 11003, 11004, 11006, 11991, and 11992: prior to the accumulation of 50,000 landings, or within one year after the effective date of this AD, whichever occurs later.

E. An alternative means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Standardization Branch, ANM-113, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Manager, Standardization Branch, ANM-113.

F. 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 Fokker USA, Inc., 1199 N. Fairfax Street, Alexandria, Virginia 22314. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

Issued in Renton, Washington, on August 6, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-19058 Filed 8-13-90; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 90-NM-142-AD]

Airworthiness Directives; Lockheed Model L-1011 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to all Lockheed Model L-1011 series airplanes, which would require certain structural modifications and some inspections. This proposal is prompted by reports of recent incidents involving fatigue cracking and corrosion in transport category airplanes that are

approaching or have exceeded their economic design goal. This condition, if not corrected, could result in a degradation in the structural capabilities of the affected airplanes. This action also reflects the FAA's decision that long term continued operational safety should be assured by actual modification of the airframe, where feasible, rather than only repetitive inspections for known service problems.

DATES: Comments must be received no later than October 22, 1990.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM–103, Attention: Airworthiness Rules Docket No. 90–NM–142–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. The applicable service information may be obtained from Lockheed Aeronautical Systems Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Order Administration, Dept. 65–33, U–33, B–1. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington, or at the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Augusto Coo, Aerospace Engineer, Airframe Branch, ANM–121L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806–2425; telephone (213) 988–5225.

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 specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 90–NM–142–AD." The post card will be date/time stamped and returned to the commenter.

Discussion

In April 1988, a high-cycle Boeing Model 737 series airplane suffered major structural damage in flight. Investigation revealed that the airplane had numerous fatigue cracks and a great deal of corrosion. Subsequent inspection conducted by the operator on the high-cycle airplanes in its fleet revealed that two other airplanes had extensive fatigue cracking and corrosion. These airplanes were taken out of service.

In June 1988, the FAA sponsored a conference on aging airplanes. It became obvious, because of the huge increase in air travel, the relatively slow pace of new airplane production, and the apparent economic feasibility of operating older technology airplanes, that older airplanes will continue to be operated rather than be retired. Because of the problems revealed by the accident described above, it was generally agreed that increased attention needed to be focused on this aging fleet and maintaining its continued operational safety.

The Air Transport Association (ATA) of America and the Aerospace Industries Association (AIA) of America committed to identifying and implementing procedures to ensure continuing structural airworthiness of aging transport category airplanes. An Aging Aircraft Task Force, with representatives from the aircraft operators, manufacturers, regulatory authorities, and other aviation representatives, was established in August 1988. The objective of the Task Force was to sponsor "Working Groups" to: (1) Select service bulletins, applicable to each airplane model in the transport fleet, to be recommended for mandatory modification and inspection of aging airplanes, (2) develop corrosion-directed inspections and prevention program, (3) review the adequacy of each operator's structural maintenance program, (4) review and update the Supplemental Inspection Documents (SID), and (5) assess repair quality.

The Working Group assigned to review Lockheed Model L–1011 series airplanes was formed in October 1988, and included Model L–1011 operators, Lockheed representatives, FAA representatives, and observers from British and Canadian regulatory agencies.

The L–1011 Working Group evaluated service experience and structural service bulletins with respect to the frequency at which defects have been found in the fleet, the access required for inspection, the probability of detecting damage using the specified inspection procedures, the potential of interaction with adjacent structural damage, and the effect on continued airworthiness of the aircraft. As a result of this evaluation, the Working Group recommended that certain inspections be accomplished for a specific period of time until a terminating modification is installed; these inspections are intended to detect premature cracking, in the event it occurs prior to the accomplishment of the terminating modifications. The Working Group also identified some cases where a terminating modification is not deemed to be necessary; it is for these cases that the Working Group recommended that inspections (and repairs, if necessary) continue indefinitely.

The Working Group completed its work on Item (1), above, in June 1990. The Working Group's proposal is contained in Lockheed Service Bulletin 093–51–035, "Structures—Aging Aircraft Structural Modifications and Inspections—Collector Service Bulletin," dated June 28, 1990 hereinafter referred to as the "Collector Service Bulletin." The FAA has reviewed and approved this document.

The Collector Service Bulletin references inspections and modifications from 48 service bulletins and recommends that they be incorporated in the applicable Lockheed Model L–1011 series airplanes. It consists of two sections: "Structural Inspections" and "Structural Modifications."

The Structural Inspections section lists those service bulletins for which inspection only has been recommended (listed under accomplishment instructions in Section 2A, Table I of the Collector Service Bulletin). The inspection thresholds and repeat inspection intervals are those specified in the individual service bulletins listed.

The Structural Modifications section recommends that inspections be performed in accordance with the thresholds and repeat inspection intervals specified in the individual service bulletins listed, until the structural modification is accomplished. The structural modifications are to be accomplished at the incorporation threshold specified in Section 2B, Table

II of the Collector Service Bulletin, or at the earlier of five years or 5,000 flight cycles.

The modifications consist of 6 modifications of the landing gear, 1 modification of the cargo door, 14 modifications of the fuselage, 1 modification of the nacelles/pylons, 1 modification of the stabilizers, and 15 modifications of the wings. They include structural reinforcement and/or replacement of skins, frames, fittings, bulkheads, and other structural members.

Inspecting and completing these modifications will reduce the potential for structural failure.

Since fatigue cracking is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require inspections and modification of Lockheed Model L–1011 series airplanes at their test-supported structural life goal or, in some cases, at a specific time, in accordance with the Lockheed Collector Service Bulletin previously described.

The FAA has been advised that many Model L–1011 series airplanes have already been modified in accordance with certain service bulletins reflected in the Collector Service Bulletin. Modification previously accomplished in accordance with those service bulletins constitutes terminating action for the applicable inspection requirements of those service bulletins. Many service bulletin terminating modifications, having relatively long thresholds, are straightforward and can be effectively accomplished while the airplane is down for other modifications called out in the Collector Service Bulletin.

The "test-supported structural life goal" of an airplane is typically considered to be the period of service, after which a substantial increase in the maintenance costs is expected to take place in order to assure continued operational safety. The test-supported structural life goal for the Lockheed Model L–1011 series airplane is 20 years for structural problems associated with environmental deterioration, and 36,000 flight cycles or 60,000 flight hours for structural problems associated with fatigue damage.

The proposed compliance time for accomplishment of the mandatory structural modification program is upon reaching the applicable test-supported structural life goal or within 5 years after the efffective date of the AD, whichever occurs later. This time interval was determined based upon the ability of the manufacturer to provide the parts necessary for the modification, and the time necessary to incorporate the modifications.

In the interim, safety will be provided by various means currently in place that are considered satisfactory to detect damage prior to the occurrence of an unsafe condition. These include operators' on-going basic maintenance programs; continuing inspections required by numerous previously issued AD's; the FAA's increased emphasis on surveillance of operators' maintenance programs and procedures; and the FAA's participation in programs to physically inspect high-time airplanes during scheduled heavy maintenance.

There are approximately 250 Model L–1011 airplanes in the worldwide fleet. It is estimated that 120 airplanes of U.S. registry would be affected by this AD within the initial threshold of 5 years.

Many of the affected airplanes have previously accomplished various modifications that would be required by this proposed AD. However, assuming that no airplane had accomplished any of the proposed modifications, the total cost impact of the proposed rule is estimated to be $100,000 per airplane over the initial 5-year time period. This figure includes $52,000 per airplane for the modification kits, and $48,000 per airplane for labor to accomplish the required actions (1,200 manhours per airplane at labor cost of $40 per manhour). Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $12,000,000 over the intitial 5-year time period. It does not include the cost of inspections, downtime, planning, setup, familiarization, or tool acquisition costs.

Additional airplanes will be affected as they accumulate time-in-service and reach the threshold for modification.

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 Federal Assessment.

For the reasons discussed above, I certify that this proposed regulation: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under 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 Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations as follows:

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.

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

Lockheed Aeronautical Systems Co.: Applies to Model L–1011 series airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent structural failure, accomplish the following:

A. Within the threshold for inspections specified in the service bulletins listed in Lockheed Service Bulletin 093–51–035 "Structures—Aging Aircraft Structural Modifications and Inspections—Collector Service Bulletin," dated June 28, 1990, (hereinafter referred to as the "Collector Service Bulletin"), or within one repetitive inspection period specified in those service bulletins after the effective date of this AD, whichever is later, inspect for cracks in accordance with those service bulletins. Repeat these inspections at intervals specified in the service bulletins listed in the Collector Service Bulletin.

1. If cracks are found during any inspection, prior to further flight, either accomplish the terminating modification in accordance with the applicable service bulletin, or repair in accordance with data approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

2. Modification in accordance with paragraph B. of this AD terminates individual inspection requirements of the applicable service bulletin.

B. The structural modifications must be accomplished in accordance with the service bulletins listed in the Collector Service Bulletin within the schedule specified in subparagraph B1. or B2. of this AD whichever occurs later:

1. Prior to reaching the threshold for modifications specified in the service bulletins listed in the Collector Service Bulletin; or,

2. Within five years or 5,000 flight cycles, whichever is earlier, after the effective date of this AD.

Note: The modification required by this paragraph does not terminate the inspection requirements of any other AD unless that AD specifies that any such modification

constitutes terminating action for the inspection requirements.

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, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Los Angeles ACO, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Los Angeles ACO.

D. 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 Lockheed Aeronautical Systems Company, P. O. Box 551, Burbank, California 91520, Attention: Commercial Order Administration, Dept. 65–33, U–33, B–1. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington, or at the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

Issued in Renton, Washington, on August 3, 1990.

Darrell M. Pederson,

Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90–19059 Filed 8–13–90; 8:45 am]

BILLING CODE 4910–13–M

---

14 CFR Part 39

[Docket No. 90–NM–118–AD]

Airworthiness Directives; Short Brothers, PLC, Model SD3–30 and SD3–60 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to all Short Brothers, PLC, Model SD3–30 series airplanes and certain Model SD3–60 series airplanes, which would require changing the power source for the pitot/static heaters from the shedding busbars to the associated main busbars. This proposal is prompted by recent reports of loss of electrical power to the pitot/static heaters due to a generator failure. This condition, if not corrected, could result in incorrect airspeed and altitude information being provided to the pilot and/or co-pilot in the event of a generator or engine failure.

DATES: Comments must be received no later than October 3, 1990.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM–103, Attention: Airworthiness Rules Docket No. 90–NM–118–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. The applicable service information may be obtained from Short Brothers, PLC, 2011 Crystal Drive, Suite 713, Arlington, Virginia 22202–3719. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Standardization Branch, ANM–113; telephone (206) 431–1565. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington, 98055–4056.

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 data for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 90–NM–118–AD." The post card will be date/time stamped and returned to the commenter.

Discussion

The United Kingdom Civil Aviation Authority (CAA), in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on all Short Brothers, PLC, Model SD3–50 series airplanes and certain Model SD3–60 series airplanes.

There have been recent reports of loss of electrical power to the pitot/static heaters due to a generator failure. In these airplanes' current configuration, the left and right pitot/static heaters' power source is supplied from the left and right shedding busbars. To correct the loss of electrical power problem, the power source is to be changed from the left and right shedding busbars to the association main busbars. This condition, if not corrected, could result in incorrect airspeed and altitude information being provided to the pilot and/or co-pilot in the event of a generator or engine failure.

Short Brothers has issued Service Bulletin SD360–24–18, Revision 1, dated June 8, 1990, and Service Bulletin SD330–24–25, dated June 1, 1990, which describe procedures to change the power source for the pitot/static heaters from the shedding busbars to the associated main busbars. The CAA has classified these service bulletins as mandatory.

Since the issuance of Service Bulletin SD360–24–18, Short Brothers has advised the FAA of changes and rearrangements needed to clarify the procedures contained in it. These changes and rearrangements are included as part of the proposed AD, since Short Brothers does not plan to revise the service bulletin at this time.

This airplane model is manufactured in United Kingdom and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, an AD is proposed which would require changing the power source for the left and right pitot/static heaters from the left and right shedding busbars to the associated main busbars, in accordance with the service bulletins previously described and additional information provided in the proposed rule.

It is estimated that 120 airplanes of U.S. registry would be affected by this AD, that it would take approximately 8.5 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. The required modification kit will be provided to the operators at no cost. Based on these figures, the total cost

impact of the AD on U.S. operators is estimated to be $31,200.

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

For the reasons discussed above, I certify that this proposed regulation (1) Is not a "major rule" under Executive Order 12291, (2) is not a "significant rule" under 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 Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—[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:

Short Brothers, PLC: Applies to all Model SD3–30 series airplanes; and Model SD3–60 series airplanes, Serial Numbers SH3601 through SH3762, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent loss of power to the pitot/static heaters and subsequent incorrect airspeed and altitude information being provided to the pilot and/or co-pilot in the event of a generator or eingine failure, accomplish the following:

A. For Model SD3–30 series airplanes: Within 4,800 hours time-in-service after the effective date of this AD, revise the power source for the pitot/static heaters, in accordance with the Accomplishment Instructions in Short Brothers Service Bulletin SD330–24–25, dated June 1, 1990.

B. For Model SD3–60 series airplanes, Serial Numbers SH3601 through SH3661, inclusive, and SH3663 through SD3665, inclusive: Within 4,800 hours time-in-service after the effective date of this AD, revise the power source for the pitot/static heaters, in accordance with Part A of the Accomplishment Instructions of Short Brothers Service Bulletin SD360–24–18, Revision 1, dated June 8, 1990, and the service bulletin changes and rearrangements identified in paragraph D., below.

C. For Model SD3–60 series airplanes, Serial Numbers SH3662 and SH3666 through SH3762, inclusive: Within 4,800 hours time-in-service after the effective date for this AD, revise the power source for the pitot/static heaters, in accordance with Part B of the Accomplishment Instructions of Short Brothers Service Bulletin SD360–24–18, Revision 1, dated June 8, 1990, and service bulletin changes and rearrangements identified in paragraph D., below.

D. The following changes and rearrangements must be made to Service Bulletin SD360–24–18, Revision 1, dated June 8, 1990, for compliance with this AD:

1. Page 4, paragraph 7.2;
   "CB173–1—CB158–1" should read 2DCB173–1—CB158–1.
   "CB173–1—CB245–1" should read 2DCB173–1—CB245–1.
2. Page 4, paragraph 8:
   "CB241–1 PB CB172–1" should read 2DCB241–1 PB2DCB172–1.
   NOTE: Prefix of 1D or 2D to cable idents indicate the location of the cables referred to are in panels 1D or 2D, respectively.
3. Page 5, paragraph 11, rearrange as follows:
   "Repeat paragraphs 1 to 10, inclusive, reading:
   Figure 3 in lieu of Figure 1, and FT29 in lieu of CB22 in paragraph 3;
   SD3–81–6966 in lieu of SD3–81–6363/H in paragraph 3.1;
   SD360–24–18/B in lieu of SD360–24–18/A in paragraph 3.2;
   FT 13 in lieu of 1DCB70 in paragraph 4;
   Figure 4 in lieu of Figure 2, FT28 in lieu of CB172, and
   CB244–1 in lieu of CB245–1 in paragraph 7;
   SD3–81–6966 in lieu of SD3–81–6364/H in paragraph 7.1;
   FT28 in lieu of CB172–1 and CB244–1 in lieu of CB245–1 in paragraph 7.2; and 2DFT38 in lieu of CB241–1 in paragraph 8."

E. 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, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Standardization Branch, ANM–113, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Manager, Standardization Branch, ANM–113.

F. 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 Shorts Brothers, PLC, 2011 Crystal Drive, Suite 713, Arlington, Virginia 22202–3719. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

Issued in Renton, Washington, on August 2, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90–19060; Filed 8–13–90; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 90–ASO–15]

Proposed Amendment to Transition Area, Orlando, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Orlando, FL, transition area. This proposed action would update the latitude/longitude coordinates for the Orlando International Airport. With construction of the third parallel runway, the geographic position (GP) of the airport was recalculated. The GP has shifted approximately ½ mile to the east and that portion of the transition area which is centered on the Orlando International Airport would be realigned accordingly.

DATES: Comments must be received on or before: September 21, 1990.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, ASO–530, Manager, System Management Branch, Docket No. 90–ASO–15, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Assistant Chief Counsel for Southern Region, room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763–7646.

FOR FURTHER INFORMATION CONTACT: James G. Walters, Airspace Section, System Management Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 763–7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 90–ASO–15." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel for Southern Region, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, System Management Branch (ASO–530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend the Orlando, FL, transition area. This action would update the latitude/longtitude coordinates of the Orlando International Airport. That portion of the transition area centered on the International Airport would shift approximately ½ mile east. Section 71.181 of part 71 of the Federal Aviation Regulations was republished in FAA Handbook 7400.6F dated January 2, 1990.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. 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, when promulgated, 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, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) 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 Public Law 97–449, January 12, 1983); 14 CFR 11.69.

2. Section 71.181 is amended as follows:

Orlando, FL [Amended]

By amending the coordinates for Orlando International Airport to read, "(lat 28°25'43" N., long. 81°18'58" W.

Issued in East Point, Georgia, on July 23, 1990.

Walter E. Denley,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 90–19062 Filed 8–13–90; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[CO–77–89]

RIN 1545–AO29

Acquisitions Made to Evade or Avoid Income Tax; Use of Corporate Tax Attributes Following an Ownership Change

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed income tax regulations which provide guidance relating to acquisitions made to evade or avoid income tax under section 269 of the Internal Revenue Code of 1986 (the "Code"). This document also contains proposed income tax regulations which provide guidance relating to the use of certain corporate tax attributes following an ownership change within the meaning of section 382(g)(1) to which section 382(l)(5) applies. Section 382 was amended in relevant part by the Tax Reform Act of 1986 (the "1986 Act") and the Revenue Act of 1987 (the "1987 Act").

DATES: Written comments and requests for a public hearing must be received by September 28, 1990. The proposed regulations would apply generally to any ownership change, as defined under section 382 of the Code, occurring after December 31, 1986.

ADDRESSES: Send comments and requests for a public hearing to: Internal Revenue Service, Attn: CC:CORP:T:R (CO–77–89), room 4429, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Victor L. Penico of the Office of Assistant Chief Counsel (Corporate), Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224 (Attention CC:CORP:T:R) or telephone 202–566–3618 (not a toll–free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains a notice of proposed rulemaking which proposes additions to part 1 of title 26 of the Code of Federal Regulations ("CFR") under sections 269 and 382 of the Code. The proposed regulations provide guidance under sections 269, 382, and 383 relating to acquisitions made to evade or avoid income tax and to the use of pre-change

corporate tax attributes following an ownership change with respect to which section 382(l)(5) applies. Section 382 was amended in relevant part by section 621 of the 1986 Act (Pub. L. No. 99–514; 100 Stat. 2085) and by section 10225 of the 1987 Act (Pub. L. No. 100–203; 101 Stat. 1330–413).

Explanation of Provisions

Overview of the Relevant Statutory Provisions

Under section 382(a) of the Code, as amended, if an ownership change occurs with respect to a loss corporation (as defined in section 382(k)(1) and § 1.382–2T(f)(1) of the Income Tax Regulations), the amount of the loss corporation's taxable income for a post-change year that may be offset by the pre-change net operating losses (and certain built-in losses) of the loss corporation cannot exceed the section 382 limitation. The section 382 limitation for a post-change year is generally equal to the fair market value of the loss corporation's stock immediately before the ownership change multiplied by the applicable long-term tax exempt rate as published in the Internal Revenue Bulletin. In general, an ownership change involves an increase of more than 50 percentage points in stock ownership by 5-percent shareholders during the testing period (usually the three-year period ending on the date on which a transaction is tested for an ownership change).

Section 382(c) of the Code reduces the section 382 limitation to the amount of certain recognized built-in gains and any excess limitation carried over from prior years if the loss corporation does not continue its business enterprise at all times during the two-year period following the ownership change. The continuity of business enterprise requirement under section 382(c) is the same continuity of business enterprise requirement that must be satisfied in order for a transaction to qualify as a tax-free reorganization under section 368. H.R. Conf. Rep. No. 841, 99th Cong., 2nd Sess., II–189 (1986), 1986–3 (Vol. 4) C.B. 194 (the "Conference Report"). Thus, a loss corporation or its successor must either continue the loss corporation's historic business or use a significant portion of the loss corporation's historic business assets in a business. *See* § 1.368–1(d).

Section 382 (l)(5) of the Code provides that section 382(a) does not apply after an ownership change of a loss corporation if (1) the corporation is under the jurisdiction of a court in a title 11 or similar case immediately before the ownership change, and (2) the corporation's pre-change shareholders and qualified creditors (determined immediately before ownership change) own at least 50 percent of the value and voting power of the loss corporation's stock (or stock of a controlling corporation if also in bankruptcy) immediately after the ownership change and as a result of being pre-change shareholders or qualified creditors immediately before the ownership change. Section 382(l)(5) applies only to a transaction that is ordered by the court or is pursuant to a plan approved by the court. Conference Report at II–192. Although the limitation imposed by section 382(a) does not apply, the loss corporation may be required to reduce a portion of its pre-change losses and credits following a transaction qualifying under section 382(l)(5).

Under section 383 of the Code and § 1.383–1T, the section 382 limitation for a post-change year also applies to limit the amount of capital gain or tax liability that may be offset, respectively, by capital losses and excess credits (excess foreign taxes carried over under section 904(c), unused general business credits carried over under section 39, and unused minimum tax credits under section 53) of the loss corporation that are attributable to the pre-change period.

Section 269 of the Code may also affect a corporation's ability to use losses and credits following a change in ownership. Under section 269, if a person acquires control of a corporation, or a corporation acquires property in a carryover basis transaction from another corporation not controlled by the acquiring corporation or its shareholders, and the principal purpose of the acquisition is the evasion or avoidance of Federal income tax by securing the benefit of a deduction, credit, or allowance which would otherwise be unavailable, the Commissioner may disallow all or a portion of the deduction, credit, or allowance.

Relationship of Section 269 to Sections 382 and 383 After the Tax Reform Act of 1986—In General

The amendments to sections 382 and 383 of the Code by the 1986 Act do not alter the continuing application of section 269 to acquisitions made for the principal purpose of evasion or avoidance of Federal income tax. Conference Report at II–194. Accordingly, the proposed regulations address the application of section 269 in situations in which section 382 or 383 also apply.

The proposed regulations provide, in general, that section 269 of the Code may be applied to disallow a deduction, credit, or other allowance the use or amount of which is limited or reduced under section 382 or 383 and the regulations thereunder. Nevertheless, because the limitations on the use of a deduction, credit, or other allowance under section 382(a) or 383 may significantly reduce the value of the deduction, credit, or other allowance to an acquirer, the proposed regulations provide that the application of these limitations following an acquisition is relevant to the determination of whether, for purposes of section 269, the principal purpose of the acquisition was to evade or avoid Federal income taxes by securing the benefit of the deduction, credit, or other allowance.

Ownership Changes to Which Section 382(l)(5) Applies

The proposed regulations clarify that the continuity of business enterprise requirement of section 382(c) of the Code does not apply to ownership changes to which section 382(l)(5) applies. In enacting section 382(l)(5), however, Congress neither explicitly nor implicitly excused bankruptcy reorganizations with a principal purpose of tax evasion or avoidance from its general direction that section 269 continue to apply in situations in which section 382(a) or section 383 also apply. Because the rate at which a corporation's surviving losses and credits may be used is not limited following an ownership change that qualifies under section 382(l)(5), the potential for tax evasion or avoidance is greater in a bankruptcy reorganization to which section 382(l)(5) applies. For example, when the corporation to be reorganized has substantial unused losses or credits but does not carry on more than an insignificant amount of an active trade or business, the principal purpose of reorganizing the corporation is likely to be to permit its creditors to recoup their losses, in part, through the tax system. The proposed regulations therefore provide that, absent strong evidence to the contrary, a requisite acquisition of control or property in connection with an ownership change to which section 382(l)(5) applies is considered to be made for the principal purpose of evasion or avoidance of Federal income tax unless the corporation carries on more than an insignificant amount of an active trade or business during and subsequent to the title 11 or similar case.

The Internal Revenue Service requests comments on whether there are other circumstances in which the acquisition of control or property of the reorganized corporation should or should not be

considered to be made for the principal purpose of tax avoidance for purposes of section 269 of the Code.

The Time of Acquisition of Control

The proposed regulations clarify that, for purposes of section 269 of the Code, control is acquired when one or more persons acquire beneficial ownership of the requisite amount of stock. The proposed regulations further provide that, although insolvency or bankruptcy may cause the interests of creditors to predominate as a practical matter, creditor interests do not constitute beneficial ownership of the corporation's stock for purposes of section 269. As a result, creditors of a corporation in bankruptcy ordinarily will be considered to have acquired control for purposes of section 269 no earlier than the confirmation of the plan of reorganization. This result is required even though, under the rule of *Helvering* v. *Alabama Asphaltic Limestone Co.*, 315 U.S. 179 (1942), the interest of the creditors has taken on an equity-like character sufficient to satisfy the non-statutory continuity of proprietary interest test for corporate reorganizations. *See Helvering* v. *Southwest Consolidated Corp.*, 315 U.S. 194 at 202 (1942) ("(I)t is one thing to say that the bondholders 'stepped into the shoes of the old stockholders' so as to acquire the proprietary interest in the insolvent company. It is quite another to say that they were the 'stockholders' within the purview of the (statutory provision).")

Relationship of Section 269 to 11 U.S.C. 1129(d)

Section 1129(d) of the Bankruptcy Code provides that, upon request of a party in interest that is a governmental unit (such as the Internal Revenue Service), the bankruptcy court may not confirm a plan of reorganization if the principal purpose of the plan is the avoidance of taxes. In any hearing under 11 U.S.C. 1129(d), the Government has the burden of proof on the issue of tax avoidance. In contrast, when the Government asserts in the course of income tax litigation that an acquisition was undertaken for the principal purpose of evading or avoiding Federal income tax, the position of the Commissioner generally is presumed to be correct and the burden of proving to the contrary is on the taxpayer.

Because the burden of proof is reversed in a proceeding under 11 U.S.C. 1129(d), the proposed regulations provide that in determining for purposes of section 269 of the Internal Revenue Code whether an acquisition pursuant to a plan of reorganization in a case under title 11 of the United States Code was made for the principal purpose of evasion or avoidance of Federal income tax, the fact that a governmental unit did not seek a determination under 11 U.S.C. 1129(d) is not taken into account and any determination by a court under 11 U.S.C. 1129(d) that the principal purpose of the plan is not avoidance of taxes is not controlling.

Special Analyses

It has been determined that these proposed rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, an initial Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Code, the proposed regulations are being sent to the Administrator of the Small Business Administration for comment on their impact on small business.

Comments and Request for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably a signed original and eight copies) to the Internal Revenue Service. All comments will be available for public inspection and copying in their entirety. A public hearing will be scheduled and held upon written request by any person who submits written comments on the proposed rules. Notice of the time and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Victor L. Penico, Office of the Assistant Chief Counsel (Corporate), Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, in matters of both substance and style.

List of Subjects

26 CFR 1.61–1 Through 1.281–4

Deductions, Exemptions, Income tax, Taxable income.

26 CFR 1.301–1 Through 1.385–6

Income taxes, Corporate distributions, Corporations, Corporate adjustments, Reorganizations.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR, chapter 1, part 1 are as follows:

PART 1—[AMENDED]

Paragraph 1. The authority for part 1 is amended by adding the following citations:

Authority: 26 U.S.C. 7805; * * * section 1.382–3 also issued under 26 U.S.C. 382(m).

§ 1.269–1 [Amended]

Par. 2. Section 1.269–1 is amended to remove "1.269–6" from the first sentence and add "1.269–7" in lieu thereof.

§ 1.269–3 [Amended]

Par. 3. Section 1.269–3 is amended as follows:

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

2. New paragraphs (d) and (e) are added to read as follows:

* * * * *

(d) *Ownership changes to which section 382(l)(5) applies; transactions indicative of purpose to evade or avoid tax.* Absent strong evidence to the contrary, a requisite acquisition of control or property in connection with an ownership change to which section 381(*l*)(5) applies is considered to be made for the principal purpose of evasion or avoidance of Federal income tax unless the corporation carries on more than an insignificant amount of an active trade or business during and subsequent to the title 11 or similar case (as defined in section 382(*l*)(5)(C)). The determination of whether the corporation carries on more than an insignificant amount of an active trade or business is based on all the facts and circumstances. These facts and circumstances may include, for example, the amount of business assets that continue to be used or the number of employees in the work force who continue employment. Where the corporation continues to utilize a significant amount of the historic business assets or work force, however, the requirement of carrying on more than an insignificant amount of an active trade or business may be met even though all trade or business activities temporarily cease.

(e) *Relationship of section 269 to 11 U.S.C. 1129(d).* In determining for purposes of section 269 of the Internal Revenue Code whether an acquisition pursuant to a plan of reorganization in a case under title 11 of the United States Code was made for the principal purpose of evasion or avoidance of Federal income tax, the fact that a

governmental unit did not seek a determination under 11 U.S.C. 1129(d) is not taken into account and any determination by a court under 11 U.S.C. 1129(d) that the principal purpose of the plan is not avoidance of taxes is not controlling.

Par. 4. Section 1.269–5 is revised to read as follows:

§ 1.269–5 Time of acquisition of control.

(a) *In general.* For purposes of section 269, an acquistion of control occurs when one or more persons acquire beneficial ownership of stock possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote or at least 50 percent of the total value of shares of all classes of stock of the corporation.

(b) *Application of general rule to certain creditors acquisitions.* For purposes of section 269, creditors of an insolvent or bankrupt corporation (by themselves or in conjunction with other persons) acquire control of the corporation when they acquire beneficial ownership of the requisite amount of stock. Although insolvency or bankruptcy may cause the interests of creditors to predominate as a practical mater, creditor interests do not constitute beneficial ownership of the corporation's stock. For purposes of section 269, creditors of a bankrupt corporation are treated as acquiring beneficial ownership of stock of the corporation no earlier than the time a bankruptcy court confirms a plan of reorganization.

Example. Corporation *L* files a petition under chapter 11 of the Bankruptcy code on January 5, 1987. A creditors' committee is formed. On February 22, 1987, and upon the request of the creditors, the bankruptcy court removes the debtor-in-possession from business management and operations and appoints a trustee. The trustee consults regularly with the creditors' committee in formulating both short-term and long-term management decisions. After three years, the creditors approve a plan of reorganization in which the oustanding stock of Corporation *L* is cancelled and its creditors receive shares of stock constituting all of the outstanding shares. The bankruptcy court confirms the plan of reorganization on March 23, 1990, and the plan is put into effect on May 25, 1990. For purposes of section 269, the creditors acquired control of Corporation *L* no earlier than March 23, 1990. Similarly, the determination of whether the creditors acquired control of Corporation *L* with the principal purpose of evasion or avoidance of Federal income tax is made by reference to the creditors' purposes as of no earlier than March 23, 1990.

Par. 5. The heading of § 1.269–6 is revised to read as follows:

§ 1.269–6 Relationship of section 269 to section 382 before the Tax Reform Act of 1986.

Par. 6. New § 1.269–7 is added to read as follows:

§ 1.269–7 Relationship of section 269 of sections 382 and 383 after the Tax Reform Act of 1986.

Section 269 and §§ 1.269–1 through 1.269–5 may be applied to disallow a deduction, credit, or other allowance notwithsanding that the utilization or amount of deduction, credit, or other allowance is limited or reduced under section 282 or 383 and the regulations thereunder. However, the fact that the amount of taxable income or tax that may be offset by a deduction, credit, or other allowance is limited under section 382(a) or 383 and the regulations thereunder is relevant to the determination of whatever the principal purpose of an acquisition is the evasion or avoidance of Federal income tax.

Par. 7. New § 1.382–3 is added to read as follows:

§ 1.382–3 Special rules under section 382 for corporations under the jurisdiction of a court in a title 11 or similar case.

(a) *Introduction.* Under section 382(*l*)(5), section 382(a) does not apply to any ownership change if—

(1) The old loss corporation is (immediately before the ownership change) under the jurisdiction of the court in a title 11 or similar case, and

(2) The pre-change shareholders and qualified creditors of the old loss corporation (determined immediately before the ownership change) own (after the ownership change and as a result of being shareholders or creditors immeditely before the ownership change) stock of the new loss corporation (or stock of a controlling corporation if also in bankruptcy) that meets the requirements of section 1504(a)(2) (determine by substituting "50 percent" for "80 percent" each place it appears). Section 382(*l*)(5) applies only to a transaction that is ordered by the court or is pursuant to a plan approved by the court.

(b) *Continuity of business requirement.* If section 382(*l*)(5) and this section apply to an owership change of a loss corporation, section 382(c) and the regulations thereunder do not apply with respect to the ownership change.

(c) [Reserved]

(d) *Coordination with definitions and nomenclature used in section 382.* Terms and nomenclature used in this section, and not otherwise defined herein, have the same respective meanings as in section 382 and the regulations thereunder.

Fred T. Goldberg, Jr.,
Commissioner of Internal Revenue.

[FR Doc. 90–18993 Filed 8–13–90; 8:45 am]
BILLING CODE 4830–01–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Parts 6 and 8

RIN 2900–AD74

Authority of Fiduciaries To Conduct Insurance Transactions

AGENCY: Department of Veterans Affairs.

ACTION: Proposed regulations.

SUMMARY: The Department of Veterans Affairs is proposing to amend its regulations to clarify and enunciate the right and authority of fiduciaries to conduct insurance transactions on behalf of government life insurance policyholders and beneficiaries.

DATES: Comments must be received on or before September 13, 1990. Comments will be available for public inspection until September 24, 1990. This amendment is proposed to be effective 30 days after publication of the final rule.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed regulation to the Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, room 132 of the above address, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays) until September 24, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Paul F. Koons, Assistant Director for Insurance, Department of Veterans Affairs Regional Office and Insurance Center, P.O. Box 8079, Philadelphia, PA 19101, (215) 951–5360.

SUPPLEMENTARY INFORMATION: The Secretary of Veterans Affairs hereby certifies that these proposed regulations, if promulgated, will not have a significant impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), these proposed regulations are, therefore, exempt from the initial and final regulatory flexibiity analyses requirements of section 603 and 604. The

reason for this certification is that these regulations will affect only certain government life insurance policyholders. They will, therefore, have no significant direct impact on small entities in terms of compliance costs, paperwork requirements or effects on competition.

The Department of Veterans Affairs has also determined that these proposed regulations are nonmajor in accordance with Executive Order 12291, Federal Regulation. These regualtions will not have a $100 million annual effect on the economy, will not cause a major increase in costs of prices, and will not otherwise have any significant adverse economic effects.

The Catalog of Federal Domestic Assistance Program number for these proposed regulations is 64.103.

List of Subjects

38 CFR Part 6

Life insurance, Veterans.

38 CFR Part 8

Life insurance, Veterans.

Approved: July 26, 1990.

Edward J. Derwinski,

Secretary of Veterans Affairs.

38 CFR part 6, United States Government Life Insurance, and part 8, National Service Life Insurance, are proposed to be amended as follows:

PART 6—[AMENDED]

1. Section 6.211 and its authority citation are added to read as follows:

§ 6.211 Guardian: definition and authority.

(a) *Definition.* For the purpose of this section, the term "guardian" includes any fiduciary certified by the appropriate Veterans Services Office under § 13.55 of this title to receive benefits in a fiduciary capacity for an insured or beneficiary.

(b) *Authority.* For the purpose of this part, a guardian of an insured or beneficiary shall have authority to: apply for conversion of a policy or change of plan; reinstate a policy; withdraw dividends held on deposit or credit; select or change a dividend option; obtain a policy loan; cash surrender a policy; authorize a deduction from benefits or allotment from military retired pay to pay premiums; apply for and receive payment of the proceeds on a matured policy; select or change the premium payment option; apply for waiver of premiums; select or change the settlement option for beneficiaries; assign a beneficiary's interest as provided under section 753 of title 38, United States Code.

(Authority: 38 U.S.C. 744)

PART 8—[AMENDED]

2. Section 8.119 and its authority citation are added to read as follows:

§ 8.119 Guardian: defintion and authority.

(a) *Definition.* For the purpose of this section, the term "guardian" includes any fiduciary certified by the appropriate Veterans Services Officer under § 13.55 of this title to receive benefits in a fiduciary capacity for an insured or beneficiary.

(b) *Authority.* For the purpose of this part, a guardian of an insured or beneficiary shall have authority to: apply for conversion of a policy or change of plan; reinstate a policy; withdraw dividends held on deposit or credit; select or change a dividend option; obtain a policy loan; cash surrender a policy; authorize a deduction from benefits or allotment from military retired pay to pay premiums; apply for and receive payment of the proceeds on a matured policy; select or change the premium payment option; apply for waiver of premiums and total disability income benefits; select or change settlement options for beneficiaries; assign a beneficiary's interest as provided under section 718 of title 38, United States Code.

(Authority: 38 U.S.C. 706)

[FR Doc. 90-19103 Filed 8-13-90; 8:45 am]

BILLING CODE 8320-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 90-16; Notice 1]

RIN 2127-AD09

Federal Motor Vehicle Safety Standard; Seating Systems—Pedestal Seats

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

ACTION: Notice of proposed rulemaking.

SUMMARY: In response to inquiries from manufacturers, this notice proposes to amend Standard No. 207, Seating Systems, to establish more appropriate test procedures for pedestal seats. The agency is proposing to test pedestal seats using a procedure that more closely represents the load distribution actually experienced by pedestal seats in real world crashes.

DATES: Comment closing date: Comments on this notice must be received on or before September 28, 1990.

Proposed effective date: If adopted, this amendment would be effective January 1, 1992.

ADDRESSES: All comments on this notice should refer to Docket No. 90-16-N01 and be submitted to Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590. (Docket hours 9:30 a.m. to 4 p.m.).

FOR FURTHER INFORMATION CONTACT: Mr. Clarke Harper, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street SW, Washington, DC. 20590 (202) 366-4916.

SUPPLEMENTARY INFORMATION:

Background

Federal Motor Vehicle Safety Standard No. 207, Seating systems, establishes requirements for seats, their attachment assemblies, and their installation to minimize the possibility of their failure by forces acting on them as a result of vehicle impact. (49 CFR 571.207). This standard applies to passenger cars, multipurpose passenger vehicles, trucks, and buses.

Section S4.2 requires that each occupant seat withstand certain forces when tested in accordance with the test procedures in section S5 of the standard. These forces include 20 times the weight of the seat applied in a forward longitudinal direction, 20 times the weight of the seat applied in a rearward longitudinal direction, and a force that produces a 3,300 inch-pound moment about the seating reference point. In addition, if a seat belt assembly is attached to the seat, the seat must withstand 20 times the weight of the seat applied simultaneously with the forces imposed by the seat belt assembly on the seat when it is loaded in accordance with the requirements of S4.2 of Standard No. 210.

The test procedure in section S5.1 require the application of a test force of 20 times the weight of the entire assembly through the center of gravity of the seat. The weight of most seats consists almost entirely of the seat pan, the seat back, and the seat adjusters. The fixed portion of the seat assembly that is fastened to the floor of the car contributes a minor portion of the overall weight of the assembly.

The agency nevertheless has been aware that the procedures present special difficulties for the testing of pedestal seats in heavy-duty trucks. A

pedestal seat consists of a seat mounted on top of a pair of seat adjusters, which are in turn attached to the top of a pedestal; the seat belt anchorages are typically attached to the pedestal. The difficulties with testing pedestal seats arise from their unusual weight distribution; in some seats, close to half of the weight of the assembly is in the pedestal. If the center of gravity of the pedestal seat assembly lies above the level of the seat adjusters, the effect of applying a force of 20 times the weight of the entire assembly through the center of gravity is to impose a force on the portion of the seat above the seat adjusters that is significantly greater than that part of the seat would actually bear in a 20g crash. Practically speaking, the effect of following the test procedures to the letter would be to impose a more stringent requirement on a pedestal seat than on a conventional seat.

At one time, the agency acknowledged this discrepancy by permitting the manufacturers of vehicles with pedestal seats to test the portion of the seat above the seat adjuster separately with a force equal to 20 times the weight of that portion of the seat. Under an interpretation issued to Mack Truck Inc. (Mack), on July 14, 1983, NHTSA stated that the seat must remain in its adjusted position when tested to 20 times the weight of the entire seat pursuant to S4.2. However, the agency then stated that a manufacturer could establish due care through a combined test procedure which would load the seat adjusters and upper seat section to only 20 times the weight of those components to determine if the seat would remain in its adjusted position, and which would load the seat as anchored to the vehicle structure to 20 times the weight of the entire seat, including the pedestal.

Atwood Mobile Products (Atwood), a manufacturer of seat adjusters, requested the agency to clarify its interpretation to Mack about the testing of pedestal seats. The letter asked, among other things, whether the weight of the pedestal portion should be added to the weight of the seat when calculating the force to be applied to the seat back for testing the compliance of the seat adjusters when mounted between the seat and pedestal.

In response to Atwood's inquiry, NHTSA sent a letter dated August 3, 1988, clarifying the agency's interpretation of Standard No. 207's applicability to pedestal seats. The agency reexamined its interpretation letter to Mack, concluding that the actual issue was not "due care" but the appropriateness of Standard No. 207's current requirements as applied to pedestal seats. The agency reiterated its statement made to Mack that the seat adjusters in a pedestal seat "would never experience the loading of the *entire* seat in an actual crash." (emphasis in original). The 1988 interpretation letter went on to state that

> Acknowledging an apparent discrepancy between the requirements of the standard for pedestal seat adjusters and real world crash conditions, the agency should have conducted rulemaking to determine whether Standard No. 207's requirements could be made more appropriate.
> In light of the issues raised by your letter, we plan to initiate rulemaking on Standard No. 207's requirements for pedestal-type seats. Specifically, we will consider, among other issues, whether Standard No. 207 should be amended to adopt a modified test for pedestal seats * * *

Agency's Proposal

After its statements to Atwood, NHTSA further reviewed the applicability of Standard No. 207's requirements to pedestal seats. Based on this review, the agency is proposing new requirements to test pedestal seats. The agency notes that Standard No. 207 is intended to ensure that seats and their attachments are strong enough not to fail by "forces acting on them as a result of vehicle impact." (S1). Thus, the agency tentatively believes that amending Standard No. 207 to include testing procedures directly applicable to pedestal seats would better reflect the standard's purpose. Such an amendment would result in a test that properly represents the loads actually experienced in real world crashes.

To illustrate, in a 20g deceleration, the seat adjuster will actually experience forces equal to 20 times the weight of the upper section of a pedestal seat (typically 40 pounds), for a total force of about 800 pounds. However, Standard No. 207 specifies a force of 20 times the weight of the entire seat applied through the seat's center of gravity. If the center of gravity is above the seat adjuster, the seat adjuster would be subjected to a force of 1600 pounds: 20 times 80 pounds, which is the typical weight of the pedestal plus upper seat. In such a situation, the test requirement would be 100 percent greater than the crash load that would actually be experienced. The agency believes that there is no safety need to subject the portion of a pedestal seat above the seat adjusters to such unrealistic loads.

NHTSA is proposing to require a single test with the simultaneous application of two loads. One load of 20 times the weight of the upper seat would be applied horizontally through the center of gravity of that portion of the seat. Simultaneously, a second load of 20 times the weight of the pedestal would be applied horizontally through the pedestal's center of gravity. If the safety belts are mounted on the seating system, the Standard No. 210 anchorage load would be applied at the same time. The agency believes that applying the loads simultaneously rather than sequentially would more nearly simulate real world crash loading.

NHTSA considered proposing a two-step test procedure like the one conducted by Mack, in which each portion of the pedestal seat (i.e., the upper seat and the pedestal component) would be tested separately for compliance with the force requirements in section S4.2. The agency is aware that such a procedure would be easier to conduct, but believes that it would not simulate the loads on the seat assembly caused by real-world crashes. In an actual crash, the pedestal would be affected by the forces exerted by the seat. Accordingly, the agency has decided to propose the simultaneous test procedure proposed in section S5.1.3 of the regulatory text.

The agency invites comments about the best method of testing pedestal seats. Should the dual loads applied to the pedestal seat be incorporated into a single, simultaneous test? Should they be applied in a separate two-step procedure? Should they be applied in yet another way?

The notice sets forth proposed definitions for "pedestal seat," "pedestal," and "upper seat." Because it may be ambiguous to determine whether a seating system is a "pedestal seat," these definitions are intended to differentiate pedestal seats from other seating systems. The agency believes that to be considered a pedestal seat, the pedestal must contribute a percentage of the seat's total weight, significant enough to affect its center of gravity and the test load. The notice also proposes to modify the standard's current definition of "occupant seat" to reflect better its express inclusion of "pedestal seats." The agency invites comments about the proposed definitions.

NHTSA notes that section S4.2 requires that the seat "shall withstand" the forces specified in the standard. The current definition for "shall withstand" is defined as the ability of the equipment to sustain the specified load, which is the same definition as used in Standard No. 210. The agency will address, in another rulemaking, whether this

definition adequately defines seat failures.

A. Cost and Benefits

NHTSA has determined that this rule is not a major rule under Executive Order 12291 nor a significant rule within the meaning of the Department of Transportation's regulatory policies and procedures. A full regulatory evaluation is not required because the rule, if adopted, would have minimal economic impacts. The proposed test procedure would not require any significant design, retooling, or assembly changes. Therefore, the agency does not anticipate any significant additional cost or cost savings. Because the proposal is essentially a clarification of the test procedure, no additional tests would have to be conducted by the vehicle manufacturers. The only change the agency foresees is that manufacturers and test laboratories would have the one-time cost related to revising their test fixtures. In particular, they would have to change their test procedures and add pneumatic or hydraulic rams to their test set-up. Because these changes would require some leadtime to implement, the agency has decided to propose an effective date of January 1, 1992.

NHTSA has considered the effects of this rulemaking action under the Regulatory Flexibility Act. Based upon the agency's evaluation, I certify that this proposed rule would not have a significant economic impact on a substantial number of small entities. While some manufacturers of pedestal seats and seat belt attachments may be small entities, the agency believes that the proposed amendment would not have a significant economic impact on them. This amendment would also affect small businesses, small organizations, and small governmental units to the extent that these entities purchase motor vehicles with pedestal seats. The preceding section reflects the agency's assessment that this amendment would have no significant cost impact to the industry, and therefore it would not result in a significant increase in consumer prices.

As it is required to do under the National Environmental Policy Act of 1969, NHTSA has considered the environmental impact of this proposal and determined that this rule would not have any significant impact on the quality of the human environment.

Further, this rulemaking action has been analyzed in accordance with the principles and criteria contained in Executive Order 12512, and it has been determined that it would have no Federalism implication that warrants preparation of a Federalism report.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

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

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Reporting and recordkeeping requirements.

In consideration of the foregoing, NHTSA proposes to amend § 571.207 of title 49 of the Code of Federal Regulations as follows:

PART 571—[AMENDED]

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

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

2. In § 571.207, S3 would be revised to read as follows:

§ 571.207 Standard No. 207; Seating systems.

* * * * *

S3. *Definitions. Occupant seat* means a designated seating position, which includes the components above the floor pan.

Pedestal means a structure which supports an uppoer seat and contributes 30 percent or more of a pedestal seat's total weight.

Pedestal seat means an assembly of an upper seat and a pedestal.

Upper seat means the seat back, the seat pan, and includes any horizontally movable portion of the occupant seat.

* * * * *

3. Section 571.207 would be amended by adding S5.1.3 to read as follows:

§ 571.207 Standard No. 207; Seating systems.

* * * * *

S5.1.3 If the seat is a pedestal seat, prepare the upper seat in accordance with S5.1.1. Attach a fixture capable of transmitting a force to the center of gravity of the pedestal. Apply a force equal to 20 times the weight of the upper seat horizontally through the center of gravity of the upper seat and simultaneously apply a force equal to 20 times the weight of the pedestal horizontally through the center of gravity of the pedestal.

* * * * *

Issued on August 7, 1990.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 90-18887 Filed 8-13-90; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 646

Snapper-Grouper Fishery of the South Atlantic

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

ACTION: Notice of availability of an amendment to a fishery managment plan and request for comments.

SUMMARY: NOAA issues this notice that the South Atlantic Fishery Management Council has submitted Amendment 3 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic (FMP) for Secretarial review and is requesting comments from the public.

DATE: Comments will be accepted until October 9, 1990.

ADDRESSES: Comments should be sent to Robert A. Sadler, Southeast Regional Office, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, FL 33702.

Copies of Amendment 3 and supporting documents may be obtained from the South Atlantic Fishery Management Council, Southpark Building, Suite 306, 1 Southpark Circle, Charleston, SC 29407–4699, telephone 803–571–4366

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

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (Magnuson Act) requires that a council-prepared fishery management plan or amendment be submitted to the Secretary of Commerce (Secretary) for review and approval or disapproval. The Magnuson Act also requires that the Secretary, upon receiving the document, immediately publish a notice of its availability for public review and comment. The Secretary will consider public comment in determining approvability of the document.

Amendment 3 to the FMP proposes to (1) add wreckfish to the snapper-grouper fishery management unit; (2) establish a permit requirement to fish for, land, or sell wreckfish; (3) require catch and effort reports from selected, permitted vessels; (4) establish a fishing year that begins on April 16 of each year; (5) establish a quota for the 1991/92 fishing year, which begins on April 16, 1991; (6) close the wreckfish fishery when the quota is reached; (7) establish a spawning-season closure from January 15 through April 15 of each year; (8) establish a trip limit of 10,000 pounds (4,526 kilograms) per vessel; (9) exclude wreckfish from the calculations for determining when a vessel with a trawl aboard is in a directed fishery for fish in the snapper-grouper fishery; (10) provide for annual modifications of specified wreckfish management measures; (11) establish March 28, 1990, as a control date after which anyone entering the fishery for wreckfish will not be assured of access to the fishery, if a limited entry program is implemented; and (12) define overfishing, as it relates to wreckfish.

Proposed regulations to implement Amendment 3 are scheduled to be published by August 23, 1990.

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

Dated: August 8, 1990.

Richard H. Schaefer,

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

[FR Doc. 90–19066 Filed 8–9–90; 11:51 am]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 55, No. 157
Tuesday, August 14, 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.

DEPARTMENT OF AGRICULTURE

Cooperative State Research Service

Animal Health Science Research Advisory Board; Open Meeting

According to the Federal Advisory Committee Act of October 6, 1972, Public Law 92–463, Cooperative State Research Service announces the following meeting:

Name: Animal Health Science Research Advisory Board.

Date: September 28, 1990.

Time: 8:30 a.m.

Place: Room 338 C, Aerospace Building, U.S. Department of Agriculture, 901 D Street SW., Washington, DC 20224.

Type of Meeting: Open to the public. persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person below.

Purpose: The Board will consult with and advise the Secretary of Agriculture on implementing animal health and disease research programs. Recommendations will be made also on priorities of research in these programs.

Board Names and Agenda: Available from contact person below.

Contact Person: George E. Cooper, Executive Secretary, Animal Health Science Research Advisory Board, Cooperative State Research Service, U.S. Department of Agriculture, Washington, DC 20250–2200, telephone (202) 401–4847.

Done at Washington, DC, this 8th day of August, 1990.

John Patrick Jordan,

Administrator.

[FR Doc. 90–19070 Filed 8–13–90; 8:45 am]

BILLING CODE 3410–MT–M

Forest Service

Coppertayl Timber Sale, Mt. Baker-Snoqualmie National Forest, Skagit County, WA.

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement (EIS) to analyze and disclose the environmental impacts of a site-specific proposal to harvest and regenerate timber, construct and reconstruct roads, and manage other resources within the planning area. The proposed project will be in compliance with the Mt. Baker-Snoqualmie National Forest Land and Resource Management Plan (Forest Plan), which provides overall guidance for management of the area, including a schedule of proposed activities for the next ten years. The proposed project is located in the vicinity of Copper and Taylor Creeks on the Mount Baker Ranger District and is schedule in the Forest Plan as a fiscal year 1992 timber sale. The Mt. Baker-Snoqualmie National Forest invites written comments and suggestions on the scope of the analysis.

DATES: Comments concerning the scope of the analysis should be received in writing by September 20, 1990.

ADDRESSES: Send written comments to Larry Hudson District Ranger, Mount Baker Ranger District, 2105 Highway 20, Sedro Woolley, WA 98284.

FOR FURTHER INFORMATION CONTACT: Ann Dumphy, Planning Forester at the above address or (206) 856–5700.

SUPPLEMENTARY INFORMATION: The proposal includes harvesting timber and constructing/reconstructing roads on one timber sale and the management of other resources within the safe area. The area being analyzed is approximately 2,260 acres in size and is adjacent to the Ross Lake National Recreation Area, to the north, and the Skagit River, to the west.

The Draft EIS will be tiered to the Final EIS for the Mt. Baker-Snoqualmie National Forest Land and Resource Management Plan June, 1990. The Land and Resrorce Management Plan's Management Area direction for this analysis area is MA 2B (Scenic Viewshed Middleground). MA 13 (Watershed, Wildlife, and Fisheries Emphasis in Riparian Areas) will be mapped as a part of the project, to meet Forest-wide Standards and Guidelines in the Forest Plan. The proposed sale area includes the western portion of the alma Cooper Roadless Area #6044 which was considered but not selected for wilderness designation in the 1984 Washington State Wilderness Act. The proposed timber sale is listed in the Timber Program Activity Schedule, (Forest Plan, Appendix A) for 1992.

Interested environmental groups, timber purchasers, and Federal, State, and local agencies were invited to participate in early scoping meetings of the Five Year Harvest Schedule held in 1987, 1988, and 1989. Adjacent landowners, interested parties and the general public were encouraged to comment on the proposal after being notified by letter and news releases in November 1988. Interested parties developed a list of preliminary issues to be addressed. Further scoping meetings may be scheduled if additional issues are raised.

Preliminary issues identified are timber harvest, retention of old growth, habitat for old growth species, visual impacts, impacts on the Ross Lake National Recreation Area, impacts to small hydro-electric projects and domestic water users, slope stability, impacts on fish and wildlife, soil productivity, entry into roadless area parcels, and impacts on clearcutting. Preliminary alternatives have been identified; one of these includes no timber harvest (no action). Alternatives for timber harvest will examine clearcutting, partial cutting and single entry shelterwood options, and both cable and helicopter logging systems.

The Forest Service is the lead agency. J.D. MacWilliams, Forest Supervisor, Mt. Baker-Snoqualmie National Forest is the responsible official. Your comments and suggestions are encouraged and should be in writing. The draft environmental impact statement is expected to be completed about November, 1990. The final environmental impact statement is scheduled for completion by May, 1991.

The comment period of the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the Federal Register.

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participations in the environmental review process. First, reviewers of draft environmental impact statements must structure their

participation in the environmental review of the proposal so that it is meaningful and alerts an egency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F. 2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and response to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.2 in addressing these points.)

The final EIS is scheduled to be completed by May, 1991. In the final EIS, the Forest Service is required to respond to comments and responses received during the 45-day comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making the decision regarding this proposal. The responsible official, J.D. MacWilliams, Forest Supervisor, will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to Forest Service appeal regulations (36 CFR part 217).

Dated: August 6, 1990.

J.D. MacWilliams,

Forest Supervisor.

[FR Doc. 90-19034 Filed 8-13-90; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-817]

Initiation of Antidumping Duty Investigation; High Information Content Flat Panel Displays and Subassemblies Thereof from Japan

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce (the Department), we are initiating an antidumping duty investigation to determine whether imports of high information content flat panel displays and subassemblies thereof (FPDs) from Japan are being, or are likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether there is a reasonable indication that an industry in the United States is 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 of FPDs. If this investigation proceeds normally, the ITC will make its preliminary determination on or before September 4, 1990. If that determination is affirmative, we will make a preliminary determination on or before December 26, 1990.

EFFECTIVE DATE: August 12, 1990.

FOR FURTHER INFORMATION CONTACT: Karmi Leiman, Joel Fischl, or Bradford Ward, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-8498, 377-1778, or 377-5288, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On July 18, 1990, we received a petition filed in proper form by the Advanced Display Manufacturers of America and its individual member companies, Planar Systems, Inc., Plasmaco, Inc., OIS Optical Imaging Systems, Inc., The Cherry Corporation, Electro-Plasma, Photonics Technology, Inc., and Magnascreen Corporation. In compliance with the filing requirements of the Department's regulations (19 CFR 353.12), petitioners allege that imports of FPDs are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that there is a reasonable indication that an industry in the United States is 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 of FPDs.

Petitioners have stated that they have standing to file the petition because they are interested parties, as defined under section 771(9)(C) of the Act, and because they have filed the petition on behalf of the U.S. industry producing the product that is subject to this investigation. If any interested party, as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act, wishes to register support for, or opposition to, this petition, please file a written notification with the Assistant Secretary for Import Administration.

Under the Department's regulations, any producer or reseller seeking exclusion from a potential antidumping duty order must submit its request for exclusion within 30 days of the date of the publication of this notice. The procedures and requirements regarding the filing of such requests are contained in 19 CFR 353.14.

United States Price and Foreign Market Value

Petitioners based their estimates of United States price on representative U.S. prices for several FPD technologies and products. The prices were obtained by individuals at the petitioners' companies that have contact with customers, independent market analysts, suppliers, and other knowledgeable persons in the industry. Petitioners adjusted the prices for foreign inland freight, foreign inland insurance, ocean freight, U.S. duty, brokerage, and U.S. inland freight.

Petitoners' estimate of foreign market value is based on constructed value (CV). The CV was developed for several technologies and products and was based on market research studies, articles in trade journals, and petitioners' own cost data.

Baed on a comparison of U.S. price and foreign market value, petitioners allege dumping margins ranging from 70 to 318 percent.

Petitioners requested that the Department investigate whether the respondents are selling FPDs in Japan at less than their cost of production (COP). However, petitioners have not submitted sufficient evidence to provide the Department with reasonable grounds to believe or suspect that home market

sales are being made at prices that are less than COP, as required by section 773(b) of the Act. Therefore, the Department will not begin a COP investigation at this time.

Initiation of Investigation

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

We have examined the petition and found that it complies with the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether imports of high information content flat panel displays and subassemblies thereof from Japan are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination by December 26, 1990.

Scope of Investigation

The products covered by this investigation are high information content flat panel displays and subassemblies thereof.

High information content flat panel displays are large area, matrix addressed displays, no greater than four inches in depth, with a picture element ("pixel") count of 120,000 or greater, whether complete or incomplete, assembled or unassembled. Included are monochromatic, limited color, and full color displays. Displays may utilize, but are not limited to, the following technologies: liquid crystal (LCD); plasma; and electroluminescence (EL). High information content flat panel displays are used to display text, graphics, and video.

Subassemblies of a display that are exclusively dedicated to or designed for use in high information content flat panel displays are also covered by this investigation.

The following merchandise is excluded: segmented flat panel displays; matrix addressed flat panel displays with less than 120,000 pixels; and cathode ray tubes (CRTs).

The appropriate Harmonized Tariff Schedule (HTS) subheadings under which the subject merchandise is classifiable are undetermined at this time. We are investigating this issue and will identify the appropriate HTS subheadings in our preliminary determination. HTS subheadings are provided for convenience and U.S. Customs Service purposes. The written description remains dispositive.

ITC Notification

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

Preliminary Determination by ITC

The ITC will determine by September 4, 1990, whether there is a reasonable indication that an industry in the United States is 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 of FPDs. If its determination is negative, the investigation will be terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

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

Dated: August 6, 1990.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 90-19098 Filed 8-13-90; 8:45 am]

BILLING CODE 3510-DS-M

[A-428-806]

Postponement of Preliminary Antidumping Duty Determination: Phototypesetting and Imagesetting Machines and Subassemblies Thereof From the Federal Republic of Germany

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: This notice informs the public that we have received a request from the petitioner in this investigation to postpone the preliminary determination, as permitted in section 733(c)(1)(A) of the Tariff Act of 1930, as amended (the Act), (19 U.S.C. 1673b(c)(1)(A)). Based on this request, we are postponing our preliminary determination as to whether sales of phototypesetting and imagesetting machines and subassemblies thereof (PTM's) from the Federal Republic of Germany have occurred at less than fair value until not later than October 16, 1990.

EFFECTIVE DATE: August 14, 1990.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp or James P. Maeder, at (202) 377-3965 or 377-4929, respectively, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION: On April 9, 1990, the Department initiated an antidumping duty investigation of PTM's from the Federal Republic of Germany. The notice stated that we would issue our preliminary determination on or before August 27, 1990 (55 FR 14099, April 16, 1990).

On July 24, 1990, counsel for petitioner requested that the Department postpone the preliminary determination until October 16, 1990, pursuant to 19 U.S.C. 1673b(c). Accordingly, we are postponing the date of the preliminary determination until not later than October 16, 1990. The U.S. International Trade Commission is being advised of this postponement, in accordance with section 733(f) of the Act.

This notice is published pursuant to section 733(c)(2) of the Act.

Dated: August 6, 1990.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 90-19099 Filed 8-14-90; 8:45 am]

BILLING CODE 3510-DS-M

DEPARTMENT OF DEFENSE

Department of the Navy

Chief of Naval Operations Executive Panel Technology Surprise Task Force; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Technology Surprise Task Force will meet August 20-24, 1990 from 9 a.m. to 5 p.m., at Los Alamos National Laboratory, P.O. Box 1663, MS A112, Los Alamos, New Mexico. This session will be closed to the public.

The purpose of this meeting is to discuss the possibility of unexpected technological breakthroughs that vastly change warfighting capabilities. The

entire agenda for the meeting will consist of discussions of key issues regarding the potential for unexpected technology breakthroughs that could have an acute impact on naval and other military forces. These matters constitute classified information that is specifically authorized by Executive Order to be kept secret in the interest of national defense and are, in fact, properly classified pursuant to such Executive Order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

Operational necessity constitutes an exceptional circumstance not allowing notice to be published in the Federal Register at least 15 days before the date of these meetings.

For further information concerning this meeting, contact: Lelia V. Carnevale, Executive Secretary to the CNO Executive Panel, 4401 Ford Avenue, Room 601, Alexandria, Virginia 22302-0268, Phone (703) 756-1205.

Dated: August 10, 1990.

Jane M. Virga,

Lieutenant, JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 90-19197 Filed 8-13-90; 8:45 am]

BILLING CODE 3810-AC-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before September 13, 1990.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to George P. Sotos, Department of Education, 400 Maryland Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: George P. Sotos (202) 708-5174.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Acting Director, Office of Information Resources Management, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following:

(1) Type of review requested, *e.g.*, new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from George Sotos at the address specified above.

Dated: August 8, 1990.

George P. Sotos,

Acting Director, for Office of Information Resources Management.

Office of Postsecondary Education

Type of Review: Revision.
Title: Application for Institutional Eligibility and Certification.
Frequency: On occasion.
Affected Public: Businesses or other for-profit; non-profit institutions.
Reporting Burden: Responses—4,370.
Burden Hours: 13,110.
Recordkeeping Burden:
Recordkeepers—0.
Burden Hours: 0.
Abstract: This form will be used by the postsecondary institutions to apply for certification under the Higher Education Act of 1965, as amended. The Department uses the information to determine the administrative and financial capability of the institution applying for certification.

[FR Doc. 90-19010 Filed 8-13-90; 8:45 am]

BILLING CODE 4000-01-M

Office of Vocational and Adult Education

Intent To Repay to the Massachusetts Department of Education Funds Recovered as a Result of a Final Audit Determination

AGENCY: Department of Education.

ACTION: Intent to award grantback funds.

SUMMARY: Under section 456 of the General Education Provisions Act (GEPA), 20 U.S.C. 1234e (1982), the provision in effect when the final audit determination was made, the Secretary of Education (Secretary) intends to repay to the Massachusetts Department of Education (State) under a grantback arrangement an amount equal to 75 percent of funds recovered by the Department of Education as a result of a final audit determination. This notice describes the State's plan for the use of funds which the Secretary intends to repay and the terms and conditions under which the Secretary intends to make these funds available and invites comments on the proposed grantback.

DATES: All written comments should be received on or before September 13, 1990.

ADDRESSES: All written comments should be submitted to Dr. Marcel R. DuVall, Chief, Finance Branch, Division of Vocational-Technical Education, Office of Vocational and Adult Education, U.S. Department of Education, (Mary E. Switzer Building, room 4521), 400 Maryland Avenue SW., Washington, DC 20202-7324.

FOR FURTHER INFORMATION CONTACT: Dr. Marcel R. DuVall, (202) 732-2402.

SUPPLEMENTARY INFORMATION:

A. Background

In March, 1987, the Department of Education recovered $236,000 from the State in satisfaction of an audit, covering the period from July 1, 1973, to February 28, 1978. The auditors examined the financial activities, management controls and selected operating practices related to programs conducted by the State under the authority of the Vocational Education Act of 1963 (VEA), as amended, 20 U.S.C. 2301 *et seq.* (1976). The auditors found that the State had improperly used funds in contravention of the applicable Federal statutes and regulations, and provisions of the Massachusetts State plan.

B. Authority for Awarding a Grantback

Section 456(a) of GEPA provides that whenever the Secretary has recovered

funds following a final audit determination with respect to any applicable program, the Secretary may consider those funds to be additional funds available for the program and may arrange to repay to the State an amount not to exceed 75 percent of the recovered funds. The Secretary may enter into this so-called "grantback" arrangement if the Secretary determines that—

(1) The practices and procedures of the State that resulted in the audit determination have been corrected, and that the State is, in all other respects, in compliance with the requirements of the applicable program;

(2) The State has submitted to the Secretary a plan for the use of the funds to be awarded under the grantback arrangement which meets the requirements of the program, and, to the extent possible, benefits the population that was affected by the failure to comply or by the misexpenditures that resulted in the audit exception; and

(3) The use of the funds to be awarded under the grantback arrangement in accordance with the State's plan would serve to achieve the purposes of the program under which funds were originally granted.

C. Plan for Use of Funds Awarded Under a Grantback Agreement

Pursuant to section 456(a) of GEPA, the State has applied for a grantback of $177,000, which is 75 percent of the recovered funds, and has submitted a plan to use the proposed grantback funds consistently with sections 251 and 252 of the Carl D. Perkins Vocational Education Act (Perkins Act), as amended, 20 U.S.C. 2301 *et seq.* (Supp. IV 1986). The audit findings against the State resulted from improper expenditures of VEA funds. However, since the Perkins Act has superseded the VEA, the State's proposal reflects the requirements of the Perkins Act.

The State proposes to use grantback funds to award four contracts, using a statewide competitive Request for Proposal (RFP) process, to operate four model training programs providing basic skills, occupational training, counseling and other supportive services for out-of-school youth. The State's plan is available on request from the Department of Education contact person listed above.

D. The Secretary's Determination

The Secretary has carefully reviewed the request for repayment of funds, the plan, and other information submitted by the State. Based upon that review, the Secretary has determined that the conditions under section 456 of GEPA have been met.

These determinations are based upon the best information available to the Secretary at the present time. If this information is not accurate or complete, the Secretary is not precluded from taking appropriate administrative action.

E. Notice of the Secretary's Intent to Enter into a Grantback Arrangement

Section 456(d) of GEPA requires that, at least 30 days before entering into an arrangement to award funds under a grantback, the Secretary must publish in the **Federal Register** a notice of intent to do so, and the terms and conditions under which the payment will be made.

In accordance with the requirement of section 456(d) of GEPA, notice is hereby given that the Secretary intends to make funds available to the Massachusetts Department of Education under a grantback arrangement. The grantback award would be in the amount of $177,000 which is 75 percent of the $236,000 recovered by the Department.

F. Terms and Conditions Under Which Payments Under a Grantback Arrangement Will Be Made

The State agrees to comply with the following terms and conditions under which payments under a grantback arrangement would be made:

(1) The funds awarded under the grantback must be spent in accordance with—

(a) All applicable statutory and regulatory requirements; and

(b) The plan that was submitted in conjunction with the grantback request dated March 17, 1988, as amended on May 20, 1988, August 12, 1988, October 12, 1989, July 12, 1990, and August 2, 1990, and any other amendments to that plan that are approved in advance by the Secretary.

(2) All funds received under the grantback arrangement must be expended not later than September 30, 1990, in accordance with section 456(c) of GEPA and the State's plan.

(3) The State must, not later than 90 days after the end of the project period, submit a report to the Secretary which—

(a) Indicates how the funds awarded under the grantback have been used;

(b) Shows that the funds awarded under the grantback have been liquidated; and

(c) Describes the results and effectiveness of the project for which the funds were spent.

(4) The State must maintain separate accounting records documenting the expenditures of funds awarded under the grantback arrangement.

(Catalog of Federal Domestic Assistance Number 84.043, Basic State Grants for Vocational Education)

Dated: June 8, 1990.

Lauro F. Cavazos,

Secretary of Education.

[FR Doc. 90-19011 Filed 8-13-90; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Privacy Act 1974; Proposed Revision to an Existing System of Records

AGENCY: Department of Energy.

ACTION: Proposed revision to an existing system of records.

SUMMARY: Federal agencies are required by the Privacy Act of 1974 (P.L. 93-579, 5 U.S.C. 552a) to publish a notice in the **Federal Register** of a proposed system of records. The Department of Energy (DOE) proposes to amend the DOE-75 Savannah River Telephone Call Account System to establish a revised system of records entitled "DOE-75 Call Detail Records." This proposed revision changes the scope of the existing system of records to include all DOE locations that utlize on-premise telephone systems. The revised system will have its inception when obsolete on-premise telephone systems are replaced with modern electronic switching systems at all DOE locations. In addition, DOE is also proposing establishment of a new routine use for DOE-75.

DATES: The new system of records and its routine use will become effective without further notice on or before September 13, 1990, unless comments are received on or before that date that would result in a contrary determination and a notice is published to that effect.

ADDRESSES: Written comments should be directed to the following address: Chief, Freedom of Information and Privacy, U.S. Department of Energy, AD-234.1, 1000 Independence Avenue SW., Washington, DC 20585. Written comments will be available for inspection at the above address between the hours of 9 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT:

Abel Lopez, Office of General Counsel, GC-43, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-8618

or

John H. Carter, Chief, FOI/PA, AD-234.1, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-5955

SUPPLEMENTARY INFORMATION: DOE proposes to amend and expand the scope of an existing system of records, DOE–75 Savannah River Telephone Call Account System, to establish a revised system of records entitled "DOE–75 Call Detail Records." This system of records will contain records of telephone extensions in the DOE telephone systems and the use of those telephone extensions to place local, long-distance, and other toll calls.

DOE has establish a call detail program to help management control the costs of operating the Department's telephone systems. To this end, the program will collect information about the use of the agency's telephone system for local, long-distance, and other toll calls and may attempt to assign responsibility to individual persons for particular calls. The purposes for this collection of information are to assist DOE in choosing more efficient and cost-effective ways of communicating; in making decisions about acquiring hardware, software, and services; and in developing management strategies for using existing telecommunications capabilities more efficiently. Other purposes are to deter use of the telephone system for unofficial purposes and to recover for the agency the cost of unofficial calls. In accordance with Federal Regulations and DOE policy, telephone conversations will not be recorded. This system of records may contain initial call detail summarized monthly and annually (or as needed), recorded on paper, magnetic tape, or disk. Locator information which indicates where telephone extensions are placed (i.e., room numbers) and records relating to the identification of individual extensions will also be included. In addition, DOE is proposing to establish a new routine use. The new routine use would permit disclosure of records to representatives of the General Services Administration for purposes of conducting management overview responsibilities and carrying out operations and telephone network functions under their purview (44 U.S.C. 2904 and 2906).

It has been determined that this proposed routine use for the disclosure of records from the system of records will be compatible with the purpose for which the records are collected.

DOE is submitting the report required by Office of Management and Budget Circular A–108 concurrently with the publication of this notice. The text of the systems notice is set forth below.

Issued in Washington, DC, this 6th day of August 1990.

Jim E. Tarro,

Director of Administration and Human Resource Management.

DOE–75

SYSTEM NAME:

Call Detail Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Records are stored at the U.S. Department of Energy (DOE) Headquarters and field locations of DOE with on-premise telephone systems.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of DOE and those employees of other Federal agencies and contractors who are located on the DOE premises and who have assigned station numbers in the on-premise telecommunications system.

CATEGORIES OF RECORDS IN THE SYSTEM:

Originating and terminating call data records relating to use of the U.S. Department of Energy telephones, including: Calling station number: date, time call originated, duration of call, and called number; directory records indicating assignment of telephone numbers to employees; and records relating to location of telephones. Reports may be generated from stored call detail records and may include, but are not limited to, station usage summaries, trunk usage summaries, traffic and network busy hour studies, on-net and off-net pricing, exception reports, bill certification, and cost allocation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Section 644 of the DOE organization Act (Pub. L. 95–91), including authorities incorporated by reference in Title III of the DOE organization Act; Executive Order 12009.

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

To representatives of the General Services Administration who are conducting records management inspections under the authority of 44 U.S.C. 2904 and 2906. Additional routine uses 1, 2, 4, 8, and 9 listed in Appendix B 47 FR 14333.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures may be made from this system to "customer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

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

STORAGE:

Records are maintained on either (1) paper, (2) magnetic tapes, (3) hard disks, or (4) microfilm.

RETRIEVABILITY:

Records are retrieved by individual telephone extension number.

SAFEGUARDS:

Manual and machine readable records are treated as sensitive unclassified materials. Records are stored in unlocked cabinets in offices within secured buildings and access is on a need-to-know basis.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in DOE 1324.2, "Records Dispostion." Records are destroyed by magnetic erasure, shredding, burning, or burial in a sanitary landfill, as appropriate.

SYSTEM MANAGER(S) AND ADDRESSES:

U.S. Department of Energy, Manager, Information Exchange Services, Office of Information, Technology, Services and Operations, AD–252.4 GTN, Washington, DC 20585, (301) 353–2711

NOTIFICATION PROCEDURE:

a. Request by an individual to determine if this system of records contains information about him/her should be directed to the Privacy Act Officer, U.S. Department of Energy, Washington, DC 20585, in accordance with DOE's Privacy Act regulations (10 CFR part 1008, September 16, 1980, 45 FR 61576).

b. Requests should include the individual's full name, station telephone number, and time period covered.

RECORD ACCESS CATEGORIES:

Same as notification procedures above.

RECORD SOURCE CATEGORIES:

Telephone assignment records; call detail listings; results of administrative inquiries relating to assignment of responsibility for placement of special local and long-distance calls.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 90–19097 Filed 8–13–90; 8:45 am]

BILLING CODE 6450–01

Federal Energy Regulatory Commission

Transportation and Construction of Facilities under Section 311 of the Natural Gas Policy Act and Replacement of Facilities; Information Collection Activities Under OMB Review

August 8, 1990.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of request for processing of information collection requirements.

SUMMARY: On August 2, 1990, the Federal Energy Regulatory Commission (Commission) issued interim rules governing (1) transportation under Section 311 of the Natural Gas Policy Act of 1978 (NGPA) and blanket transportation certificates and (2) construction of facilities pursuant to NGPA Section 311 and replacement of facilities (published in the Federal Register of August 13, 1990). On August 3, 1990, the Commission requested emergency processing of the rules' information collection requirements by the Office of Management and Budget (OMB).

DATE: The Commission requested OMB approval by August 7, 1990.

FOR FURTHER INFORMATION CONTACT: Jack Kendall, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol St., NE., Washington, DC 20426 (202) 208–1265.

Lois D. Cashell,

Secretary.

[FR Doc. 90–19012 Filed 8–13–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. QF90–180–000]

ER&L—Duplin, Inc.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

July 26, 1990.

On July 19, 1990, ER&L—Duplin, Inc., of 100 North Charles St., Baltimore, Maryland 21201, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Duplin County, North Carolina. The facility will consist of a boiler and a steam turbine generator. Thermal energy recovered from the facility will be utilized by North Carolina Ethanol, Ltd. for the production fuel grade ethanol from corn. The net electric power production capacity of the facility will be 20.5 MW. The primary source of energy will be coal. Construction of the facility is scheduled to begin in March, 1991.

Any person desiring to be heard or objecting to the granting of qualifying status 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 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. 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. 90–19005 Filed 8–13–90; 8:45 am]

BILLING CODE 6717–01–M

[Project Nos. 1417–001, *et al.*]

Hydroelectric Applications (Central Nebraska Public Power, et al.,) Notice of Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

1a. *Type of Application:* Major License.

b. *Project No.:* 1417–001.

c. *Date filed:* June 28, 1984 and supplemented June 4, 1990.

d. *Applicant:* Central Nebraska Public Power and Irrigation District.

e. *Name of Project:* Kingsley Hydro Project.

f. *Location:* On the North Platte River in Keith County, Nebraska.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Mr. Tom Watson, Crowell & Mooring, 1001 Pennsylvania Avenue, Washington, DC 20004, (202) 624–2500.

i. *FERC Contact:* Ed Lee (202) 357–0809.

j. *Comment Date:* August 20, 1990.

k. *Description of Project:* The existing operating project was issued an initial license in 1937 which expired on July 29, 1987. The licensee has filed for a new license for the continued operation of the project with no new construction proposed.

The project consists of: (1) Lake McConaughy with gross storage capacity of 1,790,000 acre-feet and surface area of 30,500 acres at normal maximum surface elevation of 3265.0 feet m.s.l.; (2) Kingsley Dam, an earth structure about 3 miles long and 163 feet high with an outlet tower and outlet conduit 415 feet long, 19 feet-in-diameter, capable of discharging about 5,720 cfs, a morning glory spillway with twelve gates capable of discharging about 54,000 cfs, and an emergency spillway 475 feet wide capable of discharging about 50,000 cfs; (3) Kingsley powerhouse, located at the right abutment of Kingsley dam, with a single 52,000-HP turbine and a 50-MW generator; (4) Lake Ogallala located at the toe of the Kingsley Dam with a usable storage of 4,200 acre-feet and surface area of 640 acres at normal maximum surface elevation of 3126.5 feet m.s.l.; the "east arm" of the lake is in FERC licensed Project No. 1835; (5) a Diversion Dam located about 50 miles downstream from Kingsley Dam, the dam is 874 feet long with concrete ogee spillway and sixteen radial gates, (6) a supply canal consisting of a 26.9-mile-long Jeffrey Section and a 48.6-mile-long Johnson Section with headgate structures, radial gate check structures, and 23 dams and impoundments of which 10 are on the Jeffrey Section and 13 on the Johnson Section; (7) Jeffrey Regulating Reservoir, the largest of the ten (10) impoundments on the Jeffrey Section of the supply canal, has a gross storage of 11,500 acre-feet and surface area of 575 acres at normal maximum surface elevation of 2758.0 feet m.s.l.; (8) Jeffrey Dam, an earth structure, 1,034 feet long and 70 feet high; (9) a 700-foot long inlet canal which connects the Jeffrey powerhouse; (10) Jeffrey Hydro with two turbines each at 13,000 HP and two generators each rated at 9 MW; (11) Johnson Regulating Reservoir, the largest of the thirteen impoundments on the Johnson Section of the supply canal has a gross storage of 52,200 acre-feet and surface area of 2,500 acres at normal maximum surface elevation of 2619.0 feet m.s.l.; (12) Johnson Dam an earth structure, 4,958 feet long and 47 feet high; (13) a forebay canal about 6,495 feet long, conveying water from

the Johnson Regulating Reservoir to the Johnson No. 1 Hydro; (14) Johnson No. 1 Hydro, has two turbines each at 13,000 HP and two generators each rated at 9 MW; (15) Johnson No. 2 Hydro, located about 5.7 miles downstream from the Johnson No. 1 Hydro, has one single 25,000-HP turbine and an 18-MW generator; and (16) an intake channel, 152 feet long and 14 feet wide, located downstream from the Johnson No. 2 Hydro, conveying condenser cooling water to the 108–MW Canaday Steam Electric Station; (17) a 60 inch-in-diameter concrete pipe which returns the condenser cooling water to the supply canal; and (18) appurtenant facilities.

l. *Purpose of Project:* Project power would continue to be utilized in the applicant's power generation system.

m. *This notice also consists of the following standard paragraphs:* B, C, and D1.

2. a. *Type of Application:* Major License.

b. *Project No.:* 1835–013.

c. *Date filed:* June 28, 1984 and supplemented June 4, 1990.

d. *Applicant:* Nebraska Public Power District.

e. *Name of Project:* Sutherland Hydro Project.

f. *Location:* On the North Platte River in Keith County, Nebraska.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Mr. Tom Watson, Crowell & Mooring, 1001 Pennsylvania Avenue, Washington, DC 20004, (202) 624–2500.

i. *FERC Contact:* Ed Lee (202) 357–0809.

j. *Comment Date: August 20, 1990.*

k. *Description of Project:* The existing operating project was issued an initial license in 1937 which expired on June 30, 1987. The licensee has filed for a new license for the continued operation of the project with no new construction proposed.

The project consists of: (1) Keystone Diversion Dam, an earth structure which impounds Lake Ogallala; the dam is 1,296 feet long and 24.4 feet high, with a south sluiceway 96 feet long, non-overflow section 525 feet long, center sluiceway 67 feet long, and an emergency spillway (fuse plug) 608 feet long; the "west arm" of the lake is in FERC licensed Project No. 1417; (2) a supply canal, 32.3 miles long, which conveys the water diverted by Keystone Diversion Dam to the Sutherland Reservoir; (3) Korty Diversion Dam, 1,244 feet long and 19 feet high with a sluiceway 58.5 feet long, concrete ogee spillway 435.5 feet long and a fuse plug 600 feet long; the dam diverts flows of the South Platte River into the South Supply Canal; (4) the South Platte Supply Canal, about seven miles long; the water from the Supply Canal may be conveyed for cooling purposes to the 650 MW steam electric Gerald Gentleman Station; (5) Sutherland Reservoir, with gross storage capacity of 65,974 acre-feet and surface area of 3,050 acres at normal maximum surface elevation of 3055.0 feet m.s.l.; the water from the Sutherland Reservoir may be conveyed for cooling purposes to the 650 MW steam electric Gerald Gentleman Station; (6) an Outlet Canal, 19 miles long, which conveys water from Sutherland Reservoir to Lake Maloney; (7) Lake Maloney and Dam, the lake is an off channel regulating reservoir with gross storage capacity of 21,600 acre-feet and surface area of 1,670 acres at normal maximum surface elevation of 3006.0 feet m.s.l.; the dam is an earth structure 8,700 feet long and 44 feet high; (8) a Power Canal two miles long, which conveys water from Lake Maloney through a forebay and penstock to the North Platte powerhouse; (9) North Platte powerhouse, located about two miles from North Platte, Nebraska, which has two 18,000-HP turbines and two generators each rated at 12 MW; (10) a tailrace canal, about two miles long, which conveys water from the North Platte powerhouse to the South Platte River; and (11) appurtenant facilities.

l. *Purpose of Project:* Project power would continue to be utilized in the applicant's power generation system.

m. This notice also consists of the following standard paragraphs: B, C, and D1.

3. a. *Type of Application:* Transfer of License.

b. *Project No.:* 2655–008.

c. *Date filed:* May 15, 1990.

d. *Applicant:* Fieldcrest Cannon, Inc. (Transferor) and Consolidated Hydro Southeast, Inc., and Eagle & Phenix Hydro Company, Inc. (Transferee).

e. *Name of Project:* Eagle & Phenix Mills Project.

f. *Location:* On the Chattahoochee River, in Muscogee County, Georgia and Russell County, Alabama.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:*

Transferor: Amy S. Koch, Chadbourne & Parke, 1101 Vermont Ave., NW., Washington, DC 20005, (202) 289–3000.

Transferee: Ralph H. Walker, Jr., President, Consolidated Hydro Southeast, Inc., and Eagle & Phenix Hydro Company, Inc., 531 South Main, RL4, Greenville, SC 29601, (803) 233–8567.

i. *FERC Contact:* Ed Lee (202) 357–0809.

j. *Comment Date:* September 7, 1990.

k. *Description of Proposed Action:* On September 12, 1978, a license was issued for the construction, operation, and maintenance of the Eagle & Phenix Mills Project. It is proposed to transfer the license because the project is to be sold to the Transferee. The proposed transfer will not result in any changes to the proposed development. The Transferor certifies that it has fully complied with the terms and conditions of the license and the Transferee agrees to be bound thereby to the same extent as though it were the original licensee.

l. This notice also consists of the following standard paragraphs: B, C, and D2.

4 a. *Type of Application:* Surrender of License.

b. *Project No.:* 8712–010.

c. *Date Filed:* May 8, 1990.

d. *Applicant:* Philip & Mildred Young.

e. *Name of Project:* Happy Corner.

f. *Location:* On Perry Stream in Coos County, New Hampshire.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. §§ 791 (a)–825(r).

h. *Applicant Contact:* Mr. Philip Young, P.O. Box 29, Pittsburg, NH 03592, (603) 538–7170.

i. *FERC Contact:* Mary C. Golato (202) 357–0804.

j. *Comment Date:* August 30, 1990.

k. *Description of Project:* The license for this project was issued on June 30, 1986, for an installed capacity of 80 kilowatts. The licensee states that it has determined that the project would be economically infeasible. No construction has commenced at the project site.

1. This notice also consists of the following standard paragraphs: B, C, and D2.

5 a. *Type of Application:* License (Major>5MW).

b. *Project No.:* 10204–001.

c. *Date Filed:* April 23, 1990.

d. *Applicant:* Northern Wasco County People's Utility District.

e. *Name of Project:* McNary Dam Washington Shore Fishway.

f. *Location:* At the Army Corps of Engineers McNary Dam on the Columbia River near Umatilla in Benton County, Washington.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Harold E. Haake, Manager, Northern Wasco County People's Utility District, P.O. Box 621, The Dalles, OR 97058, (503) 296–2947.

i. *FERC Contact:* Ms. Julie Bernt, (202) 357–0839.

j. *Comment Date:* October 4, 1990.

k. *Description of Project:* The proposed project would consist of: (1) a powerhouse containing one generating unit with a rated capacity of 8.9 MW connected to existing conduits No. 3 and No. 4 on the auxiliary water supply system to the North Fishway fish ladder; and (2) a 1,800-foot-long transmission line connecting to an existing Bonneville Power Administration power line. Applicant estimates the average annual energy production to be 70 GWh. The estimated construction cost is $44,822,600.

l. *Purpose of Project:* Power will be sold to the Bonneville Power Administration.

m. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D2.

6. a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10941–000.

c. *Date Filed:* May 31, 1990.

d. *Applicant:* Southern Minnesota Municipal Power Agency.

e. *Name of Project:* Mississippi Valley Pumped-Storage Project.

f. *Location:* On the Mississippi River, near Lake City, Wabasha County, Minnesota.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Pierre J. Heroux, Southern Minnesota Municipal Power Agency, 500 First Avenue, SW., Rochester, MN 55902–3303, (507) 285–0478.

i. *FERC Contact:* Michael Dees (202) 357–0807.

j. *Comment Date:* September 28, 1990.

k. *Description of Project:* The proposed project would consist of: (1) a proposed 400-acre upper reservoir, impounded by a ring dike, with an emergency spillway; (2) a water conductor system; (3) an underground powerstation housing two 250-MW reversible pumping/generating units; (4) an existing lower reservoir (Lake Pepin); (5) a switchyard and a one-mile-long tie-line to an existing transmission corridor; and (6) appurtenant facilities. The estimated annual energy generation is 657 GWh. Project energy would be utilized to meet the needs of the applicant's 18 members and the excess marketed to electric utilities. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $3,000,000. Applicant proposes to do geologic exploration including drilling to acquire soil samples, test pits, and seismic refraction surveys. No new roads would be required for the studies.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

7. a. *Type of Filing:* Preliminary Permit.

b. *Project No.:* 10949–000.

c. *Date Filed:* June 11, 1990.

d. *Applicant:* Cascade River Hydro.

e. *Name of Project:* Straight Creek Hydroelectric Project.

f. *Location:* On Straight Creek in Snohomish County, Washington.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. §§ 791 (a)–825(r).

h. *Applicant Contact:* Bill E. Covin, 1422–130th Avenue N.E., Bellevue, Washington 98005, (206) 455–0234.

i. *Commission Contact:* Nanzo T. Coley, (202) 357–0840.

j. *Comment Date:* October 4, 1990.

k. *Description of Project:* The proposed project would be located mostly within Mt. Baker-Snoqualmie National Forest and would consist of: (1) a proposed 20-foot-high, 100-foot-long diversion dam; (2) a proposed 8,700-foot-long, 2.5-foot-diameter penstock ; (3) a proposed powerhouse containing one generating unit rated 2.1 MW ; (4) a proposed tailrace ; (5) a proposed 21-mile-long, 34.5-kV transmission line ; and (6) appurtenant facilities. The estimated average annual energy output for the project is 8,800,000 KWh. The applicant estimates the cost of the work to be performed under the preliminary permit at $300,000.

l. *Purpose of Project:* Power produced at the project would be sold to Puget Sound Power and Light Company.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

Standard Paragraphs

A3. Development Application—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before the specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A9. Notice of intent—A notice of intent must specifiy the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a development application (specify which type of application), and be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only, those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified

comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Dean Shumway, Director, Division of Project Review, Federal Energy Regulatory Commission, Room 1027 (810 1st), at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. Agency Comments—States, agencies established pursuant to federal law that have the authority to prepare a comprehensive plan for improving, developing, and conserving a waterway affected by the project, federal and state agencies exercising administration over fish and wildlife, flood control, navigation, irrigation, recreation, cultural or other relevant resources of the state in which the project is located, and affected Indian tribes are requested to provide comments and recommendations for terms and conditions pursuant to the Federal Power Act as amended by the Electric Consumers Protection Act of 1986, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub.L. No. 88–29, and other applicable statutes. Recommended terms and conditions must be based on supporting technical data filed with the Commission along with the recommendations, in order to comply with the requirement in Section 313(b) of the Federal Power Act, 16 U.S.C. Section 8251(b), that Commission findings as to facts must be supported by substantial evidence.

All other federal, state, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the statutes listed above. No other formal requests will be made. Responses should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the applicant. If an agency does not respond to the Commission within the time set for filing, it will be presumed to have no comments. One copy of an agency's response must also be sent to the Applicant's representatives.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtain by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One, copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: August 6, 1990, Washington, DC.

Lois D. Cashell,

Secretary.

[FR Doc. 90–19006 Filed 8–13–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. FA89–62–001]

Green Mountain Power Corp.; Notice of Filing

August 3, 1990.

Take notice that on March 23, 1990, Green Mountain Power Corporation tendered for filing its Refund Report in accordance with the instructions contained in the FERC audit report dated January 11, 1990 in the above referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 17, 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. 90–19007 Filed 8–13–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM90–14–28–000]

Panhandle Eastern Pipe Line Co.; Proposed Changes to FERC Gas Tariff

August 7, 1990.

Take notice that Panhandle Eastern Pipe Line Company (Panhandle) on August 1, 1990, tendered for filing the following proposed changes to its FERC Gas Tariff, Original Volume No. 1:

Original Sheet No. 3–C.22
Original Sheet No. 3–C.23
Original Sheet No. 3–C.24
Third Revised Sheet No. 43–14.

Panhandle proposes an effective date of September 1, 1990.

Panhandle states that the foregoing tariff sheets are being filed pursuant to Order No. 500 to recover additional take-or-pay settlement and contract reformation cost fixed surcharge which its pipeline supplier, Trunkline Gas Company billed to Panhandle. As a downstream pipeline, Panhandle proposes to recover such costs on an as-billed basis, pursuant to section 2.104(e) of the Commission's General Policy and Interpretations. For fixed costs billed to Panhandle by its pipeline supplier, Panhandle will allocate such costs to its customers utilizing the same deficiency-based formula which its pipeline supplier utilized in allocating its fixed-charge take-or-pay settlement and contract reformation costs to Panhandle.

Panhandle further states that no change in the allocation methodology proposed in Docket Nos. RP88–240–000, RP89–10–000 and RP89–125–000 is contained in this filing.

Panhandle states that copies of the filing were served upon Panhandle's jurisdictional customers and interested state commission, and the parties in Docket No. RP88–262–000.

Any person desiring to be heard or to protest said filing should file a petition 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 August 15, 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 Panhandle's filing

are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-19008 Filed 8-13-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA91-1-38-000]

Ringwood Gathering Co.; Proposed Changes in FERC Gas Tariff

August 7, 1990.

Take notice that on August 1, 1990, Ringwood Gathering Company (Ringwood), 4828 Loop Central Drive, Loop Central Three, Suite 850, Houston, Texas 77081, filed a Second Revised Sheet No. 4C to its FERC Gas Tariff and FERC Form No. 542-PGA pursuant to 18 CFR 154.305 to become effective October 1, 1990.

Ringwood states that copies of the filing were served upon Ringwood jurisdictional customers and interested state agencies.

Ringwood's Annual PGA filing reflects an estimated $1.6812 per Mcf cost of gas, a current adjustment of $.1734 per Mcf; a cumulative credit adjustment of ($.2437) per Mcf; a surcharge adjustment of $.0012 per Mcf and a total sales rate of $2.0544 per Mcf.

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 Rules and Regulations. All such motions or protests should be filed on or before August 27, 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 in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 90-19009 Filed 8-13-90; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearing and Appeals

Cases Filed With the Office of Hearing and Appeals During the Week of June 29 Through July 6, 1990

During the Week of June 29 through July 6, 1990, the appeals and applications for other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. A submission inadvertently omitted from an earlier list has also been included.

Under DOE procedural regulations, 10 CFR part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: August 7, 1990.

George B. Breznay,

Director, Office of Hearings and Appeals.

List of Cases Received by the Office of Hearings and Appeals

[Week of June 29 through July 6, 1990]

Date	Name and Location of Applicant	Case No.	Type of Submission
July 2, 1990	Harald O. Dogliani, Santa Fe, NM	LFA-0056	Appeal of an Information Request Denial. If Granted: The May 25, 1990 Freedom of Information Request Denial issued by the Office of Intergovernmental and External Affairs, Albuquerque Operations Office, would be rescinded, and Harald O. Dogliani would receive access to each active Los Alamos National Laboratory contract with Diners Club.
July 5, 1990	Exxon/Smith's Car Care Center, Nashville, TN	RR307-8	Request for Modification in the Exxon Refund Proceeding. If Granted: The June 27, 1990 Decision and Order (Case No. RF307-10130) would be modified regarding the rescission of the firm's refund in the Exxon refund proceeding.

Refund Applications Received

Date received	Name of Refund Proceeding/Name of Refund Application	Case No.
11/9/87	White's Mines, Inc.	RF272-78663
6/29/90 Thru 7/7/90	Texaco Refund, Application Received	RF321-7465 Thru RF 321-7664
6/29/90 Thru 7/7/90	Atlantic Richfield Refund, Applications Received	RF304-11900 Thru RF304-11941
6/29/90 Thru 7/7/90	Gulf Oil Refund, Applications Received	RF300-11168 Thru RF300-11177
7/2/90	IBM Corporation	RC272-88
7/2/90	Johnson & Johnson	RC272-90
7/2/90	Schwan's Sales Enterprises	RC272-90
7/3/90	Plascal Corp	RF272-78662
7/5/90	Amoco II/Maine	RQ251-557
	Coline/Maine	RQ2-558
7/5/90	Springs Union Free School Dist.	RF272-78664
7/5/90	Smith Transportation Company	RF272-78665
7/5/90	Auclair Transportation Co	RF272-78666
7/5/90	American Farm Lines, Inc	RF272-78667
7/5/90	West Coast Truck Lines, Inc	RF272-78668
7/5/90	Motor Freight Express, Inc	RF272-78669
7/5/90	M.V. Marietta	RF272-78670
7/6/90	Consumers Power Company	RF171-38
	Ernest & Mildred Kissinger	RF315-9999

[FR Doc. 90-19096 Filed 8-13-90; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3818-3]

National Radon Measurement Proficiency Program

The Radon Division of the U.S. Environmental Protection Agency's (EPA) Office of Radiation Programs (ORP) is finalizing plans for the re-opening of the National Radon Measurement Proficiency Program (RMP). EPA has designed a revised RMP which is more meaningful and useful for States and consumers and more responsive to specific needs of program participants. The EPA planning team has solicited the input of EPA Regional offices, States, consumer groups, the radon industry and concerned citizens. In addition, the Agency's Science Advisory Board and the General Accounting Office (GAO) have completed reviews of the RMP program and have made recommendations for improving the program.

EPA is taking this opportunity to preview the revised RMP in order to give current and future participants an idea of how they will be affected by the new program. Some of the planned changes will be implemented when the program re-opens in September, while others will be phased into the program over the course of the next 2 years. The EPA is currently preparing the "RMP Participation Handbook" which describes the program, and covers all participant requirements. The handbook will be available for the September RMP start date. A revised RMP, summarizing most of the key changes in the RMP is presented below:

Continuous Enrollment and Testing. The revised RMP will no longer be conducted in "rounds." A participant can enroll in the program at any time, and testing will be conducted several times during the year. The continuous round will improve access to the program, reduce the time between completing enrollment and receiving proficiency status, and permit more timely updating of proficiency listings. A continuous program also allows EPA to phase in program enhancements at any point in time.

Performance Test. EPA has also revised the performance evaluation criteria that is used during announced and blind testing. The new test criteria is more stringent than the previous criteria (Mean Absolute Relative Error). The proposed criteria would subject participants to four independent exposures and require that each of the four measurements have a relative error within 25 percent of the target value. The proposed testing criteria will also include a retest option for companies meeting minimum requirements.

Required Quality Assurance/Quality Control (QA/QC). In the revised RMP, all participants will be required to establish and follow a QA/QC plan. Participants must have a QA/QC plan which includes specific provisions appropriate for their operation, and must maintain records showing they are following their plans on a day-to-day basis. The Agency will make available general guidance on preparation of QA/QC plans.

Enrollment Standards. All devices participating in the RMP must meet minimum performance criteria. These criteria, currently being finalized, will define a range of typical measurement conditions found in residential environments. A "performance envelope" defined by these typical conditions (temperature, humidity, airflow, etc.) will define the potential EPA facility chamber conditions during RMP exposures. In the future, additional classifications of use (e.g., school/workplace) may be developed.

Operator Proficiency. A written examination for all radon measurement operators providing services directly to consumers will be implemented in the summer of 1991. The agency is also working with the Regional Radon Training Centers (RRTC) to develop measurement training which is specifically oriented toward individuals who take the operator exam.

Calibration. All participants will be required to keep records showing regular calibration measurement systems and equipment (each individual active device). The Agency is currently working on interim and long-term approaches to improving the accessibility and comparability of radon calibration service providers. Once these mechanisms are in place calibration will be required as part of the QA/QC plan noted above.

Blind Testing. The revised RMP will place increased emphasis on "double-blind" testing of applicable method/device categories. Once operator proficiency requirements are implemented, the Agency will request specific operator/device combinations (based on participation application data) for other devices/methods.

De-listing. Participants who fail to meet proficiency requirements, by either failing the performance test procedures or not adhering to additional program requirements, will be removed from the RMP Cumulative Proficiency List. Participants will be asked to read and agree to all program requirements as part of the application process.

Communication to States and Consumers. The continuous nature of the RMP will allow more frequent updates of the proficiency list. This includes immediate updating of a computerized RMP database which will be accessible to States. To improve consumer recognition of the program, both the handbook and application will encourage participants to use standard language when communicating their proficiency status to consumers. Identification cards will also be issued to individuals who meet the RMP's operator proficiency requirements.

EPA staff are also considering other program enhancements which may affect the RMP. These potential changes range from evaluating the current performance test, to developing a "Model State Certification" program. The model State program, for example, could serve to foster national consistency in the requirements placed upon measurement (and mitigation) firms and will subsequently increase consumer confidence in radon measurements.

It should be noted that interested parties may respond to the program changes outlined above. EPA's Radon Division will accept public comment for thirty days following the publishing date, however, we encourage all interested parties to submit comment as soon as possible. Comments within the first twenty days will be most useful for the opening of the program in September. Send comments to Margaret M. FitzPatrick, ANR-464, Environmental Protection Agency, Washington, DC 20460.

Margaret M. FitzPatrick,

National Radon Proficiency Program.

[FR Doc. 90-19079 Filed 8-13-90; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3820]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The

ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before September 13, 1990.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382–2740.

SUPPLEMENTARY INFORMATION:

Office of Administration

Title: Environmental Protection Agency form 5720–12, Application for Federal Assistance (Construction). (EPA ICR #0874.04; OMB #2030–0018). This request extends the expiration date of a currently approved collection without any change in the substance or in the method of collection.

Abstract: Title II of the Clean Water Act authorizes federal funding for the construction of waste water treatment plants. To apply for funding, states and municipalities submit application form 5720 to state and EPA regional offices. The form queries respondents on such issues as project building costs, state certification, and the need for constructing the treatment plant. EPA uses this information to determine if the project meets statutory/regulatory requirements, and if the project constitutes a prudent use of federal funds.

Burden Statement: The public reporting burden for this collection of information is estimated to average 20.5 hours 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.

Respondents: States and municipalities.

Estimated Number of Respondents: 565.

Estimated Total Annual Respondent Burden: 12,148.

Frequency of Collection: On occasion.

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223), 401 M Street SW., Washington, DC 20460,
and
Tim Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503.

Dated: August 8, 1990.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 90–19075 Filed 8–13–90; 8:45 am]

BILLING CODE 6560–50–M

[FRL–3820–6]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before September 13, 1990.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382–2740.

SUPPLEMENTARY INFORMATION:

Office of Pesticides and Toxic Substances

Title: Registration of Pesticides Under section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act (EPA ICR #0277.04; OMB #2070–0060).

Abstract: Section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) requires that persons (or entities) who market pesticides be registered with the federal government. Respondents submit to EPA an application package that includes an application for pesticide registration or amendment, a confidential statement of formula, and a data reference sheet. In completing these forms, respondents must provide such information as the type(s) of chemical(s) involved, the type of packaging and the location of label directions. Some respondents must also submit supporting data on the pH of aqueous formulations, results of flame extension tests for pressurized products, and certified limits on a product's active ingredients. EPA uses this information to determine whether the application and supporting information comply with federal pesticide laws.

Burden Statement: The public reporting burden for this collection of information is estimated to average 59 hours 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.

Respondents: Anyone who intends to market a pesticide.

Estimated Number of Respondents: 9,500.

Estimated Total Annual Respondent Burden: 579,000 hours.

Frequency of Collection: On occasion.

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223), 401 M Street SW., Washington, DC 20460,
and
Tim Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503.

Dated: August 8, 1990.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 90–19076 Filed 8–13–90; 8:45 am]

BILLING CODE 6560–50–M

[FRL 3820–4]

Science Advisory Board Radiation Advisory Committee, Radionuclides in Drinking Water Subcommittee; Conference Call Meeting;

August 20, 1990.

Under Public Law 92–463, notice is hereby given that the Radionuclides in Drinking Water Subcommittee of the Science Advisory Board's Radiation Advisory Committee will hold a final conference call on August 20, 1990 to complete the review of four criteria documents on radionuclides in drinking water. The final call will be held at 12 to 2 p.m. EDT on Monday, August 20, 1990. The Subcommittee will edit its report(s) on four criteria documents it has reviewed for the Office of Drinking Water.

Members of the public may participate by providing oral or written comment or by listening to the call. However, the availability to participate is limited by the nature of the conference call equipment. Opportunities for oral comment will be limited to a total of 15 minutes. Written comment should be submitted (six copies) in advance. Members of the public wishing further information should call either Mrs. Dorothy Clark or Mrs. Kathleen Conway at 202/382–2552. Those wishing to participate in the conference call should call by noon on the Friday before the scheduled call.

Dated: July 31, 1990.

Donald G. Barnes,

Director, Science Advisory Board.

[FR Doc. 90–19077 Filed 8–13–90; 8:45 am]

BILLING CODE 6560–50–M

[FRL-3820-5]

Science Advisory Board; Environmental Health Committee; Open Conference Call Meeting

Under Public Law 92-463, notice is hereby given that a telephone conference call meeting of the Environmental Health Committee of the Science Advisory Board will be held on August 29, 1990 in Conference Room 1111WT at U.S. Environmental Protection Agency Headquarters, 401 M Street, SW., Washington, DC 20460. This conference call will start at 1:30 p.m. and end at 3:30 p.m. The meeting is open to the public at the above location where telephone conference equipment will be available.

The purpose of the meeting is to consider issues related to the weight-of-evidence classification of pentachlorophenol and specific tumor responses (liver tumors and pheochromocytomas) that were raised by Vulcan Chemical Co. at the July 9, 1990 meeting of the Executive Committee of the Science Advisory Board.

Documentation for this meeting is available from Ms. Darlene A. Sewell, Science Advisory Board (A-101F), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, telephone (202) 382-2552.

Any member of the public wishing to make a presentation at the meeting should forward a written statement by August 24, 1990, to Dr. C. Richard Cothern, Designated Federal Official, Science Advisory Board (A-101F), U.S. Environmental Protection Agency, Washington, DC 20460, telephone (202) 382-2552 or telefax (202) 475-9693.

The Science Advisory Board expects that the public statements presented at its meetings will not be repetitive of previously submitted statements. In general, each individual or group making an oral presentation will be limited to a total of ten minutes.

Dated: August 8, 1990.

Donald G. Barnes,

Director, Science Advisory Board.

[FR Doc. 90-19078 Filed 8-13-90; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice that the following agreement(s) has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. § 814).

Interested parties may inspect and may request a copy of each agreement and the supporting statement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments and protests are found in § 560.7 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: 224-200401.

Title: Jacksonville Port Authority/ Puerto Rico Maritime Shipping Authority Terminal Agreement.

Parties

Puerto Rico Maritime Shipping Authority (PRMSA)
Jacksonville Port Authority (Jaxport)

Synopsis: The Agreement provides for the docking of vessels at Jaxport's facilities. Container vessels will be billed at $4.80 per foot, per initial 24 hour period, thereafter dockage assessed will be based on a 6 hour period or fraction thereof. Dockage for RO/RO vessels (699' to 790' range) will be $3.88 per foot, per initial 24 hour period, after which a prorated charge will be assessed based on a 6 hour period or fraction thereof.

By Order of the Federal Maritime Commission.

Dated: August 9, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 90-19024 Filed 8-13-90; 8:45 am]

BILLING CODE 6730-01-M

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10220. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-010690-004.

Title: City of Los Angeles/Trans Pacific Container Service Corporation Terminal Agreement.

Parties

City of Los Angeles
Trans Pacific Container Service Corporation

Synopsis: The Agreement amends the basic agreement to add additional area, and adjust the minimum annual guarantee and the second revenue sharing breakpoint accordingly. The Agreement also provides a one time credit adjustment for the second compensation year of the agreement.

By Order of the Federal Maritime Commission.

Dated: August 9, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 90-19025 Filed 8-13-90; 8:45 am]

BILLING CODE 6730-01-M

Filing and Effective Date of Agreement

The Federal Maritime Commission hereby gives notice, that on August 2, 1990, the following agreement was filed with the Commission pursuant to section 5, Shipping Act of 1984, and was deemed effective that date, to the extent it constitutes an assessment agreement as described in paragraph (d) of section 5, Shipping Act of 1984.

Agreement No.: 201-200063-004.

Title: MYSA-ILA Tonnage Assessment Agreement.

Parties:

New York Shipping Association, Inc. (NYSA)
International Longshoremen's Association, AFL-CIO

Synopsis: The agreement provides that effective July 23, 1990: (1) NYSA contracting stevedores shall be liable for an assessment of $1.85 per assessment ton on all containers handled at the Military Ocean Terminal at Bayonne, N.J. (MOTBY) when such containers are loaded, unloaded, stuffed, stripped, and/ or drayed out of MOTBY for a non-subscribing carrier; (2) if containers are loaded, unloaded, stuffed, stripped, and/ or drayed for a subscribing carrier (SG), the $1.85 per assessment ton shall be

paid by the SC when the containers are loaded at commercial terminals within the Port of New York; and, (3) no container unit charge, including the $55 unit charge imposed by Contract Board Report No. 3827, shall apply to any activity at MOTBY.

By Order of the Federal Maritime Commission.

Dated: August 9, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 90-19026 Filed 8-13-90; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

ABN/AMRO Holding N.V.; Preferred Stichting; Priority Stichting; Proposal To Engage in the Execution and Clearance of Securities, Futures Contracts, and Options on Futures Contracts; Correction

This notice corrects two previous Federal Register Notices, (FR Doc. 90-11020) published at page 19786 of the issue for Friday, May 11, 1990, and the correction notice (FR Doc. 90-12556) published at page 22,098 of the issue for Thursday, May 31, 1990.

Under the Federal Reserve Bank of New York, the entry for Amsterdam/ Rotterdam Bank N.V. and Stichting Amro is revised to read as follows:

1. The name of Applicants has changed from Amsterdam-Rotterdam Bank N.V. and Stichting Amro to ABN/ AMRO Holding N.V., Amsterdam, The Netherlands; Preferred Stichting, Amsterdam, The Netherlands; and Priority Stichting, Amsterdam, The Netherlands.

Comments on this application must be received by September 1, 1990.

Board of Governors of the Federal Reserve System, August 8, 1990.

Jennifier J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-19019 Filed 8-13-90; 8:45]

BILLING CODE 6210-01-M

The Dai-Ichi Kangyo Bank, Ltd., Tokyo, Japan; Application To Engage de Novo in Providing Investment Advice, Execution and Clearance of Futures Contracts and Options on Futures Contracts, and Options on Bullion, Foreign Exchange, Government Securities, Certificates of Deposit, and Certain Stock and Bond Indices

The Dai-Ichi Kangyo Bank, Limited, Tokyo, Japan ("Applicant") has applied pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) ("BHC Act") and § 225.23(a) of the Board's Regulation Y (12 CFR 225.23(a)), through a wholly-owned subsidiary to be located in Chicago, Illinois ("Company") to engage *de novo* in providing certain investment advice and engaging in the execution and clearance on major commodity exchanges of various futures contracts, options on futures contracts and options on other financially-related instruments through Company as a futures commission merchant ("FCM"), and to engage in the above-referenced activities as an agent for affiliated entities in international transactions. These activities would be conducted on a nationwide and international basis.

Applicant proposes to engage *de novo* in the following activities:

(1) Through Company as a FCM in the execution and clearance on major commodity exchanges of futures contracts, options on futures contracts and options on bullion, foreign exchange, government securities, certificates of deposit, certain stock and bond indices and other money market instruments that a bank may buy or sell in the cash market for its own account previously considered by the Board under certain circumstances or that may be offered from time to time on major commodity exchanges, upon prior notice to an approval from the Federal Reserve Bank of San Francisco;

(2) Through Company as a FCM in providing investment advice, including counsel, publications, written analysis and reports with respect to the purchase and sale of the futures contracts and options on futures contracts for the above-mentioned commodities and instruments; and

(3) Through Company in the above-mentioned activities as an agent for affiliated entities that provide FCM services on foreign exchanges.

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with Board approval, engage in any activity "which the Board, after due notice and opportunity for hearing, has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto." Applicant believes that this proposed activity is "so closely related to banking or managing or controlling banks as to be a proper incident thereto."

The Board has previously approved the execution and clearance of the stock and bond index futures contracts (and options thereon). See Chemical Banking Corporation, 75 Federal Reserve Bulletin ____ (Order dated June 11, 1990) ("Chemical Bank"); BankAmerica Corporation, 75 Federal Reserve Bulletin 78 (1989); The Long-Term Credit Bank of Japan, Limited, 74 Federal Reserve Bulletin 573 (1988); Northern Trust Corporation, 74 Federal Reserve Bulletin 333 (1988) ("Northern Trust"); Saban, S.A., 73 Federal Reserve Bulletin 224 (1987); The Chase Manhattan Corporation, 72 Federal Reserve Bulletin 203 (1986); Manufacturers Hanover Corporation, 72 Federal Reserve Bulletin 144 (1986), J.P. Morgan & Co., Incorporated, 71 Federal Reserve Bulletin 251 (1985); Bankers Trust New York Corporation, 71 Federal Reserve Bulletin 111 (1986). Applicant has made the commitments set forth in § 225.25(b)(18) relied upon by the Board in previous orders.

The Board has also previously approved the provision of investment advice as a FCM with respect to the specified stock and bond index futures contracts (and options thereon). *See* Chemical Bank; The Long-Term Credit Bank of Japan, Limited, 74 Federal Reserve Bulletin 573 (1988); Citicorp, 73 Federal Reserve Bulletin 220 (1987); Manufacturers Hanover Corporation, 72 Federal Reserve Bulletin 144 (1986); Bankers Trust New York Corporation, 71 Federal Reserve Bulletin 111 (1985); J.P. Morgan & Co., Incorporated, 70 Federal Reserve Bulletin 780 (1984); Manufacturers Hanover Corporation, 70 Federal Reserve Bulletin 369 (1984).

Applicant relies on the Board's orders in Chemical Bank and in Northern Trust for authority to provide financial advisory services regarding all of the futures contracts (and options thereon) described in the application. Applicant has no current plans to register Company as a commodity trading advisor ("CTA") but would do so in the future if customers desire advisory services requiring such registration. Company, in providing advice as a FCM, will adhere to the conditions set forth in § 225.25(b)(19) of Regulation Y.

In addition, Applicant seeks authority to engage in the above-referenced FCM and financial advisory activities as an agent for affiliated entities in international transactions occurring on foreign exchanges. This activity is generally permissible for bank holding companies under §§ 225.25(b)(18) and (b)(19) of Regulation Y and certain Board Orders. *See* BankAmerica, 75 Federal Reserve Bulletin 78 (1989); The Chase Manhattan Corporation, 72 Federal Reserve Bulletin 203 (1986); Bank of Montreal, 71 Federal Reserve Bulletin 970 (1985); Bankers Trust New York Corporation, 71 Federal Reserve

Bulletin 801 (1985); Citibank Overseas Investment Corp., 68 Federal Reserve Bulletin 671 (1982). In addition to the foreign exchanges which the Board has approved for bank holding companies to conduct FCM activities, Applicants propose that Company be able to act as agent in the conduct of FCM and investment advisory activities on the European Options Exchange, Guarantee Fund for Danish Options and Futures, Irish Futures and Options Exchange, Montreal Exchange, New Zealand Futures Exchange, OMF Paris Futures and Options Exchange, Stockholm Options Market, and Toronto Futures Exchange. In addition, Company proposes to execute orders referred to it by its foreign affiliates on U.S. contract markets. Company has committed to conduct these dealings with foreign affiliates in accordance with the above-mentioned Board Orders and regulations.

Applicant maintains that the proposed activities will benefit the public. Applicant believes that they will promote competition and provide added convenience to customers of Applicant and its affiliates. Moreover, Applicant believes that the potential risks and conflicts from the provision of these services are no different from those arising in other applications approved by the Board.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than August 28, 1990. Any request for a hearing on this application must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically and questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of San Francisco.

Board of Governors of the Federal Reserve System, August 8, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-19020 Filed 8-13-90; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

[Docket No. 9236]

Consumer Direct, Inc.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, two Ohio based companies and their officers from making false and unsubstantiated claims about "Gut Buster" an exercise device. Respondents are also required to warn past purchasers of the potential for breakage and personal injury from the device.

DATES: Comments must be received on or before October 15, 1990.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Joel Winston, FTC/S-4009, Washington, DC 20580, (202) 326-3153.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's Rules of Practice (16 CFR 3.25(f), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order to Cease and Desist

In the matter of Consumer Direct, Inc., The Gut Buster Corporation, and Fitness Quest, Inc., corporations, and Richard A. Suarez and LuAnn Suarez, individually and as officers of said corporations; Docket No. 9236.

The agreement herein, by and between Consumer Direct, Inc., The Gut Buster Corporation, and Fitness Quest, Inc., corporations, by their duly authorized officers, Richard A. Suarez, individually and as an officer of said corporations, and LuAnn Suarez, individually and as an officer of The Gut Buster Corporation and Fitness Quest, Inc., hereafter sometimes referred to as respondents, and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's Rule governing consent order procedures. In accordance therewith the parties hereby agree that:

1. Respondent Consumer Direct, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its office and principal place of business located at 1375 Raff Road SW., Canton, Ohio 44750.

Respondent The Gut Buster Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its office and principal place of business located at 1400 Raff Road SW., Canton, Ohio 44750.

Respondent Fitness Quest, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its office and principal place of business located at 1400 Raff Road SW., Canton, Ohio 44750.

Respondent Richard A. Suarez is an officer and director of the corporate respondents named herein. LuAnn Suarez is an officer of The Gut Buster Corporation and an officer and director of Fitness Quest, Inc. They formulate, direct and control the policies, acts and practices of said corporations. Richard Suarez' address is the same as that of respondent Consumer Direct, Inc. LuAnn Suarez' address is the same as that of respondent Fitness Quest, Inc.

2. Respondents have been served with a copy of the complaint issued by the Federal Trade Commission charging them with a violation of section 5(a) of the Federal Trade Commission Act, and have filed answers to said complaint denying said charges.

3. Respondents admit all of the jurisdictional facts set forth in the Commission's complaint in this proceeding.

4. Respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) All claims under the Equal Access to Justice Act.

5. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this

agreement is accepted by the Commission, it will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the respondents, in which event it will take such action as it may consider appropriate, or issue and serve its decision, in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in the said copy of the complaint issued by the Commission.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 3.25(f) of the Commission's Rules, the Commission may without further notice to proposed respondents, (1) issue its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the agreed-to order to respondents' address as stated in this agreement shall constitute service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or contradict the terms of the order.

8. Respondents have read the complaint and the order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

1. For purposes of this order, all references to "exercise product or device" shall include any product or device designed or used to develop or maintain fitness or to strengthen, tone, firm, trim, flatten, condition, or stretch one or more body parts.

2. For purposes of this order, all references to "any substantially similar device" means any exercise device consisting of a spring connected to handles and foot pedals that is marketed to be used to perform any spring-assisted stomach exercise.

3. For purposes of this order, all references to "weight control product or device" shall include any product or device designed or used to prevent weight gain or to produce weight loss, reduction or elimination of fat, slimming, or a caloric deficit in a user of the product or device.

I

It is ordered that respondents Consumer Direct, Inc., The Gut Buster Corporation, and Fitness Quest, Inc., corporations, their successors and assigns, and their officers, and Richard A. Suarez and LuAnn Suarez, individually and as officers of said corporations, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, labeling, packaging, offering for sale, sale or distribution of the Gut Buster exerciser or any substantially similar device, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that such product or device will:

A. Significantly flatten or trim the user's stomach;

B. Strengthen or tone the user's stomach or abdominal muscles sufficiently to significantly improve the user's waistline;

C. Burn or reduce stomach fat;

D. Achieve any of the effects described in subparagraphs A through C above with a daily regimen of five minutes of use; or

E. Achieve stomach exercising or strengthening effects superior to those of ordinary sit-ups.

II

It is further ordered that respondents Consumer Direct, Inc., The Gut Buster Corporation, and Fitness Quest, Inc., corporations, their successors and assigns, and their officers, and Richard A. Suarez and LuAnn Suarez, individually and as officers of said corporations, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, labeling, packaging, offering for sale, sale, or distribution of any exercise product or device or any weight control product or device, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that such product or device:

A. Is effective for exercising, strengthening or toning the body or any specific muscle or body part;

B. Can achieve any result superior or comparable to that achieved with any other product, device or exercise;

C. Can achieve any specific result upon use for any stated amount of time;

D. Is effective in burning off, reducing or eliminating fat;

E. Is effective in flattening, trimming, or slimming the stomach or any other body part; or

F. Can perform in any manner.

unless, at the time at making such representation, respondents possess and rely upon a reasonable basis consisting of competent and reliable evidence substantiating the representation.

For purposes of this provision, to the extent evidence consists of scientific or professional tests, analyses, research or studies, such evidence shall be "competent and reliable" only if those tests, analyses, research or studies are conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession or science to yield accurate and reliable results.

III

It is further ordered that respondents shall include a clear and prominent notice in all advertisements, promotional materials, and product instructions, and on the product itself, for the Gut Buster exerciser or any substantially similar device, stating that overstretching the spring may break the spring and cause injury, and describing what steps should be taken to avoid overstretching the spring.

Nothing contrary to, inconsistent with, or in mitigation of the above required notice shall be used in any such advertising, instruction or promotional materials.

IV

It is further ordered that respondents, their successors and assigns, and their officers, employees, agents and representatives, shall, in accordance with the provisions of this Part, provide notification to purchasers of the Gut Buster. *Provided, however,* That the requirements of this Part shall not apply to any owner or purchaser of a Gut Buster who returned the device to respondents or reported that it had been discarded, and received a full refund.

A. Notification of Consumers

1. Within twenty (20) days from the date of service of this Order, respondents shall compile a current mailing list containing the name and last known address of each customer who purchased a Gut Buster from respondents in the United States. This list shall be separate from the list of names and last known addresses of Gut Buster purchasers and owners compiled pursuant to parts IV.B.1 and IV.B.2 of this Order.

2. In compiling this list, respondents shall retain a National Change of Address System ("NCOA") licensee to update this list by processing the list through the NCOA database.

3. Within thirty (30) days from the date of service of this Order, respondents shall send a postcard, 3⅔ inches by 6 inches, in the form set forth in Appendix A to this Order, by third class mail, to the last known address of each customer named on the mailing list compiled in accordance with Parts IV.A.1 and IV.A.2. The text of the postcard shall be printed in black ink. The phrase "WARNING! SAFETY NOTICE *Read Carefully"* shall appear on both the front and the back of the postcard in red ink. The typeface of both the text and the phrase "WARNING! SAFETY NOTICE" shall be equal or larger in size to that set forth in appendix A. No information other than that contained in appendix A shall be included in or added to the postcard, nor shall any other material be transmitted therewith.

4. Respondents shall also mail the postcard described in part IV.A.3 to any person about whom a respondent receives information through any inquiry indicating that (s)he purchased or owns a Gut Buster or any substantially similar device. The mailing required by this subparagraph shall be made within thirty (30) days of a respondent's receipt of a corrected address for, or information identifying, each such person.

B. Notification of Persons Who Purchased Gut Busters Through Credit Card Solicitations

1. Respondents shall use their best efforts to obtain the names and last known addresses of all persons who either purchased Gut Busters through solicitations in credit card bills or statements, or who own Gut Busters as a result of such a purchase. Such efforts shall include, but are not limited to, sending within five (5) days from the date of service of this Order the letter attached hereto as appendix B to all credit card syndicators used by respondents, and directly notifying, upon the approval of the appropriate syndicator, any credit card company that fails in response to a request from the syndicator to provide all available names and last known addresses of persons who purchased Gut Busters through solicitations in its bills or statements.

2. Within sixty (60) days from the date of service of this Order, respondents shall compile a list of all purchasers identified pursuant to Part IV.B.1, shall retain a National Change of Address licensee to update this list in the manner specified in part IV.A.2, and shall notify all such persons in the manner specified in part IV.A.3 within seventy (70) days from the date of service of this Order, or pay all reasonable expenses of having notices sent directly by the credit card syndicators or credit card companies.

3. Within seventy (70) days from the date of service of this Order, respondents shall submit to the staff of the Federal Trade Commission a written report on all efforts taken to acquire the names and last known addresses of all persons who purchased the Gut Buster through solicitations in credit card bills or statements, including the total number of persons who purchased Gut Busters through this method. Such report, which may be submitted as a part of the report filed pursuant to Part IX of this Order, shall include a list of all Gut Buster purchasers whose names and last known addresses have been acquired from credit card syndicators or credit card companies. For each credit card company that provides any names and last known addresses of Gut Buster purchasers and/or represents that any names or last known addresses are not in its possession or control and are otherwise not reasonably available, respondents shall procure and submit as part of its report a written statement signed by an authorized corporate officer or responsible departmental manager of the credit card company stating that all names and last known addresses reasonably available have been provided, and with respect to any names or last known addresses that are not available, describing with specificity the reason(s) for the unavailability. *Provided,* That in any instance in which a credit card syndicator is in possession of the names and last known addresses of all persons who purchased the Gut Buster through solicitations in a particular credit card company's bills or statements, respondents shall instead procure and submit as part of its report a written statement signed by the credit card syndicator stating that all names and last known addresses reasonably available have been provided.

4. If any credit card syndicator or credit card company either (a) fails to respond to requests by any credit card syndicator and by respondents made pursuant to part IV.B.1; or (b)(i) fails to provide either the names and last known addresses of all persons who purchased a Gut Buster through that company's solicitations or a written statement as described in part IV.B.3 that said information is not available, and (ii) fails to provide a written statement that it mailed out all notifications itself, the report required by part IV.B.3 shall include the names, addresses, and telephone numbers of each such credit card syndicator or credit card company. The staff of the Federal Trade Commission shall retain the right to contact each such credit card syndicator or credit card company directly.

5. Respondents shall notify in the manner specified in part IV.A herein all Gut Buster owners or purchasers whose names and last known addresses the staff of the Federal Trade Commission has obtained from any credit card syndicator or credit card company within ten (10) days of their receipt of the names and addresses, or shall pay all reasonable expenses of having notices sent by the staff of the Federal Trade Commission or its agents or by credit card syndicators or credit card companies.

6. The submission to the staff of the Federal Trade Commission of the report required in parts IV.B.3 and IV.B.4 containing all required information and the mailing of all required notifications to all Gut Buster purchasers identified pursuant to part IV.B herein shall be deemed to be satisfactory compliance with the terms of part IV.B of this Order.

C. Respondents' Obligation To Provide Retrofit Instructions

1. Respondents shall maintain and provide adequate staffing for the toll-free telephone number specified in appendix A which purchasers may call to request retrofit instructions or with inquiries relating to the retrofit program. This obligation shall expire two (2) years from the date of service of this Order. From the date of the first mailing of a postcard pursuant to part IV.A.3 to a date 120 days after the last mailing of a postcard pursuant to part IV.A.3, the toll-free telephone number shall be staffed seven days a week between the hours of 8 a.m. to 10 p.m., Eastern Standard Time/Eastern Daylight Time national holidays excluded. For the remainder of the two-year period in which Respondents are to maintain this toll-free telephone number, Respondents

shall staff the number from 8 a.m. to 5 p.m., Eastern Standard Time/Eastern Daylight Time, Monday through Friday, national holidays excluded. At all times during the two-year period when Respondents are not under an obligation to staff the toll-free number, Respondents shall answer the number with a tape recorder announcing the hours during which the number is staffed. Respondents shall not promote or solicit the sale of any product or service in response to requests or inquiries to this toll-free telephone number.

2. Within ten (10) days from the receipt in any manner of a customer request for retrofit instructions, respondents shall mail instructions in the form set forth in appendix C to this Order by third class mail to the mailing address of each customer requesting such instructions.

3. If a customer informs a respondent that (s)he is unable to retrofit his or her Gut Buster after telephone assistance, respondents shall pay for shipments of the customer's Gut Buster to respondents for respondents to make the retrofit without charge to the customer.

D. Respondent's Record-Keeping Requirements

Respondents, their successors and assigns, shall, for three (3) years after the date of service of this Order, maintain and upon request make available to the Federal Trade Commission or its staff for inspection and copying:

1. Sufficient records to identify:

a. The name and last known address of each purchaser of the Gut Buster compiled pursuant to part IV of this Order;

b. The name and last known address of each person sent a notification postcard pursuant to part IV.A.3 of this Order and the date the postcard was mailed;

c. The name and last known address of each person sent a notification postcard pursuant to part IV.A.4 of this Order and the date the postcard was mailed;

d. The name and last known address of each person sent retrofit instructions pursuant to part IV.C.2 of this Order and the date the instructions were mailed;

e. The name and last known address of each person who requested retrofit instructions and was refused, the reason for each refusal and the dates of the request and refusal; and

f. The name and last known address of each person who purchased or owned a Gut Buster, returned the device to respondents or reported that it has been discarded, and received a full refund.

2. Sample copies of all postcards, letters and instructions sent to consumers pursuant to this Order.

3. All correspondence and records of communications between respondents and any person relating to the notification program.

V

It is further ordered that respondents, their successors and assigns, shall, for three (3) years after the date of the last dissemination of the representation to which they pertain, maintain and upon request make available to the Federal Trade Commission or its staff for inspection and copying:

A. All materials that were relied upon by respondent(s) in disseminating any representation covered by this Order; and

B. All reports, tests, studies, surveys, demonstrations or other evidence in any repondent's possession or control that contradict, qualify, or call into question such representation, or the basis upon which the respondent relied for such representation, including complaints from consumers.

VI

It is further ordered that respondents shall notify the Commission at least thirty (30) days prior to any proposed change in any corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the Order.

VII

It is further ordered that for a period of ten (10) years from the date of service of this Order, each of the individual respondents named herein shall promptly notify the Commission in the event of the discontinuance of his/her present business or employment and of each affiliation with a new business or employment. Each such notice shall include the individual respondent's new business address and a statement of the nature of the business or employment in which said respondent is newly engaged as well as a description of said respondent's duties and responsibilities in connection with the business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this Order.

VIII

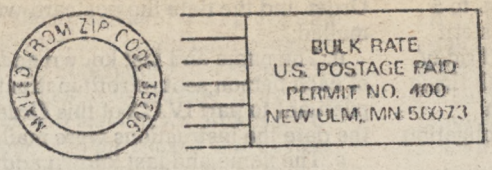
It is further ordered that respondents Consumer Direct, Inc., The Gut Buster Corporation, and Fitness Quest, Inc. shall distribute a copy of this Order to each of their operating divisions, to each of their managerial employees, and to each of their officers, agents, representatives or employees engaged in the preparation and placement of advertising or other sales materials covered by this Order and shall secure from each such person a signed statement acknowledging receipt of this Order.

IX

It is further ordered that respondents shall, within seventy (70) days after the date of service of this Order and at such other times as the Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with the requirements of this Order.

BILLING CODE 6750-01-M

Gut Buster
1400 Raff Road SW
Canton, Ohio 44750



WARNING! SAFETY NOTICE

Read Carefully.

John Doe
123 City Avenue
Anytown, USA 12345

In the Matter of Consumer Direct, Inc.

Appendix A (Postcard: Address)

WARNING! SAFETY NOTICE

Dear Gut Buster owner:

Using your Gut Buster exerciser may cause injury. The spring may break and snap back and hit you. Please call us toll-free at 1-800-325-7292 for instructions about how to adjust your Gut Buster to correct this possible hazard.
DO NOT USE YOUR GUT BUSTER UNTIL YOU HAVE MADE THIS ADJUSTMENT!

We are sending you this notice as part of a settlement of a lawsuit filed by the Federal Trade Commission (FTC). The FTC believes that there have been numerous injuries caused by broken Gut Buster springs. The FTC has also charged that the Gut Buster, contrary to our advertising claims, does not trim or flatten the stomach area. Although we deny these charges, we have agreed to send you this notice.

If you don't use your Gut Buster or do not wish to make the adjustment, please make sure that no one else uses it.

In the Matter of Consumer Direct, Inc.

Appendix A (Postcard: Text)

CONSUMER DIRECT® INC.

ROBERT R. SCHNABEL, JR.
EXECUTIVE VICE PRESIDENT

Dear [Name of Syndicator]:

We are in the process of settling our dispute with the Federal Trade Commission regarding Gut Buster. As part of the settlement, we are agreeing to notify all our customers with a safety mailing.

Since we are not contractually permitted to contact the companies you syndicate, we are asking you to contact them and request they furnish us with the names of their Gut Buster customers so we can mail the safety notification to them. Naturally, all expenses will be the responsibility of C.D.I.

If there is a problem with any of the companies furnishing us with their names, we would be willing to furnish them with the safety notification copy so they, in turn could mail their customers without relinquishing their list to us. Naturally, C.D.I. will bear all reasonable expenses incurred to perform such a mailing.

As part of our agreement with the Federal Trade Commission, we have agreed to request that you waive the contractual provision which prohibits C.D.I. from contacting the companies you syndicate. If these companies do not respond to your request for the names and addresses of Gut Buster purchasers, we would like the opportunity to contact them directly to request this information.

This matter is very important to us and we hope you can convince the companies to cooperate with us to make this most important safety mailing.

I'll be calling you to discuss this further.

Sincerely,
CONSUMER DIRECT, INC.

Robert R. Schnabel, Jr.
Executive Vice President

RRS/jmc

1375 RAFF RD. SW ■ CANTON, OHIO 44750 ■ (216) 478-0755 ■ FAX: (216) 478-5514 ■ TELEX: CONPUBINC CTN

In the Matter of Consumer Direct, Inc.

APPENDIX B

IMPORTANT SAFETY WARNING

DO NOT USE THE GUT BUSTER® UNTIL YOU HAVE SHORTENED AND RETIED THE NYLON SAFETY CORD AS SHOWN IN THE INSTRUCTIONS ON THE REVERSE SIDE! STRETCHING THE GUT BUSTER UNIT TOO FAR OVER-EXTENDS THE SPRING BEYOND ITS INTENDED USAGE AND CAN RESULT IN INJURY.

To assure that the spring will not fly loose and cause injuries in the unlikely event that the spring breaks, we urge you to retie the nylon safety cord in accordance with the detailed instructions on the reverse side.

Retying the nylon safety cord to 28" (which will stretch to a maximum of 30") will prevent you or other users of the GUT BUSTER unit from stretching the spring too far. The detailed instructions on the reverse side will show you how to shorten and retie the cord. You are cautioned and urged to shorten and retie the cord immediately.

You should have no problem following the instructions on the reverse side. If you do, call our toll free number: 1-800-325-7292. We will answer any questions and make every attempt to help you make this necessary safety adjustment.

If you are still unable to make this adjustment yourself after telephone assistance, arrangements will be made for you to send us your GUT BUSTER to make the correction for you without charge.

If you no longer use your GUT BUSTER or do not wish to make this adjustment, please make sure that no one else will use it.

GUT BUSTER®
1400 RAFF ROAD SW
CANTON, OHIO 44750

GUT BUSTER®
1400 Raff Road SW
CANTON, OHIO 44750

BULK RATE
U.S. POSTAGE
PAID
PERMIT #419
CANTON, OHIO

Here are the instructions you requested for your Gut Buster.

In the Matter of Consumer Direct, Inc.

APPENDIX C: Front

Instructions for adjusting your Gut Buster.

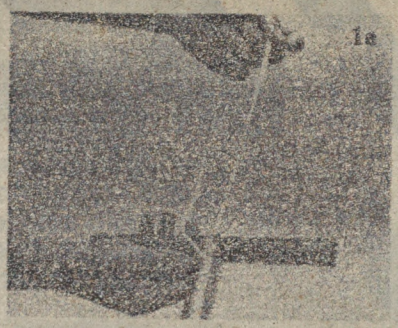
TOOLS REQUIRED:

Small screwdriver

tape measure or yardstick

pencil or pen.





(1 & 1a) Using a small screwdriver, carefully pull safety cord out of the spring from top (handle) of the Gut Buster.



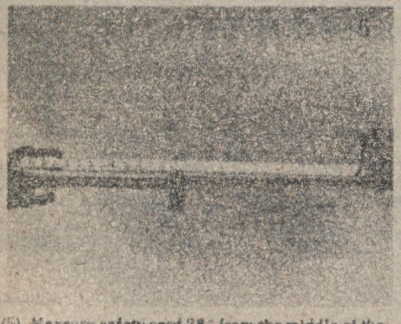
(2) Untie triple overhand knots in safety cord located at the handle. Do not cut safety cord.



(3) Grab LOOSE END of safety cord and pull firmly until cord is fully extended. (Do not pull safety cord out from under coil at handle) Note: if cord is tight, turn handle to allow cord to be pulled out.



(4) Hold cord straight out from Gut Buster



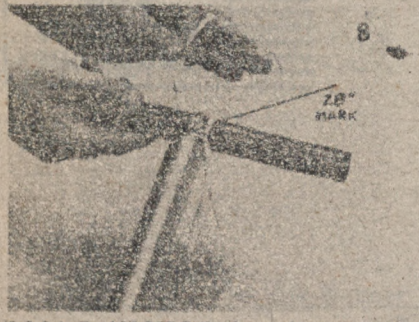
(5) Measure safety cord 28" from the middle of the foot pedal bar and mark the 28" point clearly with a pen or pencil. (Measuring 28" will allow the safety cord to stretch 30").

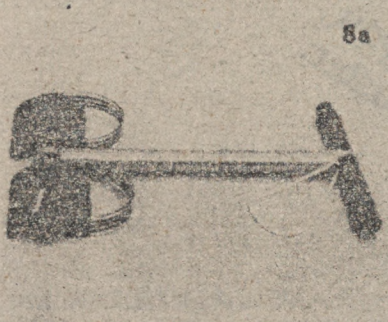


(6) Pull the safety cord back through spring loop at handle to 28" mark.



(7) Tie LOOSE END of safety cord to safety cord at handle using three (3) overhand knots. Make sure knots are snug.





(8 & 8a). Feed LOOSE END of the safety cord back into long coiled spring. Do not cut the safety cord. The looped end will go back into the spring when you begin exercising.



9) Once you resume exercising, the SAFETY CORD SHOULD NOT EXTEND BEYOND 30". Keep knees bent and arms straight. Spring should not touch any part of your body during exercise.

In the Matter of Consumer Direct, Inc.

APPENDIX C: Back 2c

BILLING CODE 6750-01-C

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from respondents Fitness Quest, Inc., The Gut Buster Corporation, Consumer Direct, Inc., Richard A. Suarez, and Luann Suarez.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

This matter concerns advertising for a spring-operated stomach exercise device called the Gut Buster. The Commission's complaint charges that the respondents' advertisements contained false and unsubstantiated representations concerning the effectiveness of the Gut Buster and failed to disclose the safety hazard the Gut Buster posed. The complaint alleges that the respondents represented that, in a few minutes of daily use, the Gut Buster would "burn" stomach fat, significantly strengthen or tone the user's stomach muscles, and flatten and trim the stomach, and that the Gut Buster was superior to ordinary sit-ups to exercise and strengthen the stomach muscles. The complaint also alleges that the respondents failed to disclose adequately the material fact that, when used as directed, the Gut Buster posed a risk of injury from the product's spring or other parts breaking. This failure to disclose is alleged to be an unfair practice because it causes substantial consumer injury which consumers cannot reasonably avoid and which is not outweighed by any countervailing benefits.

The proposed consent order contains provisions designed to remedy the violations charged and to prevent the respondents from engaging in similar acts and practices in the future.

Part I of the proposed order requires the respondents to cease making any stomach flattening or strengthening claims for the Gut Buster or any substantially similar device. Part II prohibits the respondents from making representations as to the effectiveness or performance of any exercise or weight control product or device, unless the respondents possess and rely upon a reasonable basis for the representation at the time it is made.

Under Part III of the proposed order, the respondents are required to include in any advertisements, promotional materials, product instructions, and on the product itself, for any Gut Buster or substantially similar device, a notice stating that overstretching the device may break the spring and cause injury.

Part IV requires the respondents to notify Gut Buster purchasers of the spring breakage potential and of the FTC's allegations that the product is ineffective. It also requires the respondents to provide, to Gut Buster purchasers who request them, instructions on how to modify or "retrofit" the device to reduce the spring breakage potential. The retrofit consists of retying the cord inside the spring to shorten it and prevent the spring from overstretching. The notice is made through postcards to all purchasers, which include an 800 toll-free phone number for requesting retrofit instructions. This part of the order also provides for notification to customers who purchased the Gut Buster through solicitations included in monthly credit card bills.

The proposed order requires the respondents to maintain materials relied upon to substantiate claims covered by the order, to distribute copies of the order to certain company officials and employees, to notify the Commission of any changes in corporate structure that might affect compliance with the order, and to file one or more reports detailing compliance with the order.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 90-19094 Filed 8-13-90; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

Meeting

In accordance with section 10(a) of the Federal Advisory Committee Act (5 U.S.C. Appendix 2), announcement is made of the following advisory committee scheduled to meet during the month of August 1990:

Name: General Research Support Services Advisory Committee.

Date and time: August 20, 1990, 9 a.m.

Place: Parklawn Building, Room 18-05, 5600 Fishers Lane, Rockville, Maryland.

Meeting will be closed to the public.

Purpose: The Committee's charge is to provide technical review and evaluation of contract proposals to: Provide for the preparation of bibliographies, syntheses, and like materials dealing with the research activities of the Agency for Health Care Policy and Research (the Agency); prepare for and conduct meetings dealing with the development and dissemination of health services research findings and information, and meetings for developing and setting research agendas and priorities; and provide other support activities to assist the Agency in carrying out its related legislative mandates.

Agenda: The session will be devoted to the technical review and evaluation of contracts submitted in response to the Request for Proposals entitled "General Research Support Services." Because the Committee's meetings deal with proposed research contracts involving confidential proprietary information and personal information concerning individual research staff members, information exempt from mandatory disclosure, and in order to protect the free exchange of views and avoid undue interference with Committee and Department operations, these meetings will not be open to the public. This is in accordance with section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. Appendix 2, 45 CFR 11.5(a)(6), and 41 CFR 315.604(d).

Anyone wishing to obtain information regarding this meeting should contact Mr. Barry N. Flaer, Contract Liaison Officer, Agency for Health Care Policy and Research, Room 18-15, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-5690.

The agenda is subject to change as priorities dictate.

Dated: August 10, 1990.

J. Jarrett Clinton,

Acting Administrator, Assistant Surgeon General.

Note.—Due to unforeseen circumstances, arrangements for this meeting were delayed so that more timely notification was not possible.

[FR Doc. 90-19233 Filed 8-13-90; 8:45 am]

BILLING CODE 4160-90-M

Meeting

In accordance with section 10(a) of the Federal Advisory Committee Act (5 U.S.C. Appendix 2), announcement is made of the following advisory

committee scheduled to meet during the month of August 1990:

Name: Medical Treatment Effectiveness Guideline Development Support Advisory Committee.

Date and time: August 17, 1990, 9 a.m.

Place: Parklawn Building, Room 18–05, 5600 Fishers Lane, Rockville, Maryland.

Meeting will be closed to the public.

Purpose: The Committee's charge is to provide technical review and evaluation of contract proposals to facilitate the development of guidelines, standards, performance measures, and review criteria by panels of appropriately qualified experts and consumers of health services.

Agenda: The session will be devoted to the technical review and evaluation of contracts submitted in response to the Request for Proposals entitled "Medical Treatment Effectiveness Guideline Development Support." Because the Committee's meetings will deal with proposed research contracts involving confidential proprietary information and personal information concerning individual research staff members, information exempt from mandatory disclosure, and in order to protect the free exchange of views and avoid undue interference with Committee and Department operations, these meetings will not be open to the public. This is in accordance with section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. Appendix 2, 45 CFR 11.5(a)(6), and 41 CFR 315.604(d).

Anyone wishing to obtain information regarding this meeting should contact Mr. Barry N. Flaer, Contract Liaison Officer, Agency for Health Care Policy and Research, Room 18–15, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–5690.

The agenda is subject to change as priorities dictate.

Dated: August 10, 1990.

J. Jarrett Clinton,

Acting Administrator, Assistant Surgeon General.

Note.—Due to unforeseen circumstances, arrangements for this meeting were delayed so that more timely notification was not possible.

[FR Doc. 90–19232 Filed 8–13–90; 8:45 am]

BILLING CODE 4160–90–M

Medical Treatment Effectiveness Research

Summary

This notice describes the extramural research plans of the Agency for Health Care Policy and Research (AHCPR) to carry out its responsibility for implementing the Medical Treatment Effectiveness Program (MEDTEP). The research to be sponsored by AHCPR under MEDTEP will be selected based on its potential for improving the quality, effectiveness, and appropriateness of medical practice by developing and disseminating information regarding the outcomes of health care services and procedures used to prevent, diagnose, treat, and manage health conditions.

Introduction

This notice invites research grant applications that address the programmatic objectives of the Department of Health and Human Services' Medical Treatment Effectiveness Program (MEDTEP), which embodies the mandated health services research on patient outcomes set forth in sections 1875c and 1142 of the Social Security Act (42 U.S.C. 139511 and 1320b–12) as amended by section 6103(b) of the Omnibus Budget Reconciliation Act of 1989 (Pub. L. 101–239). The Agency for Health Care Policy and Research was established by Public Law 101–239 to continue and expand the work of the National Center for Health Services Research and Health Care Technology Assessment. AHCPR is working collaboratively with other agencies of the Public Health Service and with the Health Care Financing Administration in carrying out MEDTEP research activities.

MEDTEP's primary goal is to improve the quality, effectiveness, and appropriateness of medical practice by developing and disseminating scientific information regarding the outcomes of health care services and procedures used to prevent, diagnose, treat, and manage illness and disability. Patient outcomes include effects on survival, health status, functional capacity, and quality of life. AHCPR will support investigator-initiated grants that combine the expertise of health services researchers and practicing clinicians in the collection, analysis, interpretation, and dissemination of information on the outcomes of various health care services and procedures. MEDTEP research is a major resource for a collaborative governmental and private effort to develop practice guidelines regarding the most effective and appropriate use of health care services and procedures.

Elements of the Medical Treatment Effectiveness Research Program

MEDTEP encompasses three areas of research, as follows:

1. Medical Effectiveness/Patient Outcome Research

AHCPR will support research on health care interventions for a wide range of acute and chronic conditions that occur in all age groups, with special emphasis on Medicare beneficiaries. Targeted for support are projects that focus on health problems and interventions for which the risks and costs are particularly high, that affect large numbers of people, and those for which clinical practice and outcomes are particularly variable or uncertain. Another important consideration is the availability of data. Examples of MEDTEP research priorities include the clinical conditions selected by the Institute of Medicine, in its study, *Effectiveness Initiative: Setting Priorities for Clinical Conditions* (1989), such as acute myocardial infarction, angina (stable and unstable), breast cancer, congestive heart failure, and hip fracture.

MEDTEP research emphasizes the comparison of alternative treatments for the same condition, including the possibilities of "watchful waiting" and decisions not to treat. In addition to clinical outcomes, patients' perceptions of their functional ability and health status are also to be addressed. Medical, surgical, nursing, and pharmacological interventions are within the scope of this research program.

Individuals may refer to the AHCPR Program Note dated March 1990 with its accompanying list of selected references for additional guidance on medical effectiveness research. Copies may be obtained by calling the Center for Research Dissemination and Liaison at (301) 443–2904.

AHCPR will support the collection and analysis of new data as well as secondary analyses of data and syntheses of research findings. The program will also support methodological studies focused on the development of improved measures and methods for data collection and analysis.

2. Data Base Development

AHCPR will support the design and development of new data bases and the enhancement of existing data bases that are useful for patient outcomes research and clinical decisionmaking. This includes support for the development of uniform definitions, common reporting formats, linkages across data bases, standards to ensure confidentiality of data, investigations of the validity and accuracy of patient data, and ways to improve the quality, uniformity, and

relevance of data for medical effectiveness research. AHCPR will support development of data sets useful for comparisons of patient outcomes across population groups, health care providers, health care settings, geographic areas of the United States, and other countries. The representation of minority populations in data bases and creative uses of large, ongoing, patient-based data sets (e.g., Medicare and Medicaid) are encouraged. Consistent with statutory restrictions on identifiable data in 42 U.S.C. 299a–1(c), new and enhanced data sets developed with MEDTEP support are to be available in the public domain.

3. Research on Dissemination Methods

MEDTEP goals include improving the effectiveness with which research findings are disseminated to diverse audiences. AHCPR will support research projects to evaluate the effect of alternative dissemination strategies, including development, demonstration, and evaluation of methods of presenting, publicizing, and distributing information to the intended audiences. This effort emphasizes the exploration of innovative methods to assess audience needs and to translate the findings of patient outcomes research into formats that will be most useful to health care professionals, patients, and policy makers. The effectiveness of dissemination should be addressed in terms of the speed and completeness with which information is adopted and the degree to which dissemination activities motivate and sustain voluntary changes in provider or patient behavior.

MEDTEP Research Grant Applications

In selecting a research topic appropriate for MEDTEP, investigators should consider the following criteria: the number of individuals affected, the extent of uncertainty or controversy with respect to the use of a procedure or its effectiveness, the level of related expenditure, and the availability of data. Of special interest are treatments and procedures that have particular significance in the Medicare program, methodological studies that will strengthen subsequent research, and studies that will help to inform practice guidelines.

AHCPR is interested in receiving two types of grant applications for MEDTEP research, as follows:

1. *Patient Outcomes Research Team (PORT) Applications:* Patient Outcomes Research Team projects [formerly known as Patient Outcome Assessment Research Program (POARP) projects] are multifaceted, multidisciplinary projects, usually involving large data sets collected and analyzed over several years. The goals of a PORT project are to identify and compare the outcomes and costs of alternative practice patterns for the selected condition or illness, in order to determine the most effective treatment strategy and to develop and test methods for reducing inappropriate variations in practice.

PORT projects include the following special requirements:

Research Plan—PORT applications must include the following four components:

- Comprehensive literature review and synthesis
- Analysis of variations in medical practice and related patient outcomes
- Dissemination of findings and recommendations about medical treatment effectiveness
- Evaluation of the effects of dissemination

Research Team—PORT projects call for a multidisciplinary team of researchers that is generally larger and more diverse than that expected in other patient outcomes research projects. Each PORT should include both academic and practicing community health care providers, and each team must embody or have available expertise in a variety of disciplines and specialties.

2. *Other Patient Outcomes Research Applications:* These projects may address effectiveness and patient outcomes associated with specific health care services or procedures; they may concentrate on a particular methodologic topic, issue in data base development, or method of dissemination; or they may propose a synthesis of available research findings. Collaboration, research questions, methods, and dissemination plans will generally be more limited in scope than in a PORT proposal.

Applicant Eligibility

Applicants for this grant program must be public or private nonprofit institutions or units of State or local government. Other institutions and individuals are not eligible to apply.

Availability of Funds

Although the Congress has not yet appropriated Fiscal Year (FY) 1991 funds for this program, the Administration's FY 1991 budget request contains $32 million for the support of research grants to study medical effectiveness.

Application Procedures

1. Application Forms

All applicants, except units of State and local governments, must use form PHS 398. Applicants from State and local governments are to use form DHHS 5161, Application for Federal Assistance (nonconstruction programs).

Application forms are available from most university business offices and from:

Review and Advisory Services Program, Agency for Health Care Policy and Research, room 18A–20, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–3091,

or

Office of Grants Inquiries, Division of Research Grants, National Institutes of Health, Westwood Building, room 449, 5333 Westbard Avenue, Bethesda, MD 20892, (301) 496–7441.

2. Application Submission

The original and 6 copies of the application form PHS 398 must be sent or delivered, according to the schedule below, to: National Institutes of Health, Division of Research Grants, Westwood Building, room 240, 5333 Westbard Avenue, Bethesda, MD 20892.

State and local governments using from DHHS 5161 must submit an original and 2 copies of the application.

Applications submitted in response to this announcement should be so identified on the face sheet of the application form. Applicants should check the box for item #2 and, next to the checked box, enter the words "AHCPR/Medical Treatment Effectiveness Research." For a PORT application, enter AHCPR/PORT."

For PORT applications (only), the 20-page limit specified on page 20 of the Instruction Sheet for PHS Form 398 is waived. Instead, PORT applications are subject to a 30-page limit for sections A–D of the Research Plan (section 2 of the application). To qualify as a PORT application, *all* four components listed above, under "Patient Outcomes Research Team (PORT) Applications," must be included. Further, to exercise the page limitation waiver, the designation "AHCPR/PORT" must appear on the face page of the application (item #2).

3. Receipt and Review Schedule

The following schedule for submission and review of applications applies to MEDTEP grant applications submitted in any particular year. Specifically, the first deadline for receipt of applications for FY 1991 funds is October 1, 1990,

with future applications for funds following the established schedule.

Receipt date	Initial review	Council review	Earliest start date
Oct. 1	Feb./Mar.	May/June	July 1.
Feb. 1	June/July	Sept./Oct.	Dec. 1.
June 1	Oct./Nov.	Jan./Feb.	Apr. 1.

Applications must be received by the above receipt dates. To ensure against problems caused by carrier delays, retain a legible proof-of-mailing receipt from the carrier, dated no later than one week prior to the receipt date. If the receipt date falls on a weekend, it will be extended to Monday. If the date falls on a holiday, it will be extended to the following work day. The receipt date will be waived only in extenuating circumstances.

Applications which do not meet the deadline criteria specified above will be considered late and will be held for the next scheduled receipt date.

Review Methods and Review Criteria

The AHCPR provides grant support for medical treatment effectiveness research as authorized by section 6103 of the Omnibus Budget Reconciliation Act of 1989 (Pub. L. 101–239). Grants are administered in accordance with the *Code of Federal Regulations*, 42 CFR part 67, and the *Public Health Service Grants Policy Statement*, dated January 1, 1987.

Applications will be reviewed for scientific and technical merit by a review panel (study section) comprised of non-Federal scientists. In addition, applications requesting total direct costs in excess of $250,000 are reviewed by the National Advisory Council for Health Care Policy, Research and Evaluation.

AHCPR grant applications are reviewed according to the following general criteria:

- Significance and originality of the project from a scientific and technical veiwpoint,
- Adequacy of the theoretical and conceptual framework of the proposed research and appropriateness of research methods,
- Availability of data, access to research subjects or data bases, and adequacy of the data collection plan,
- Appropriateness of the work plan and schedule for organizing and completing the project,
- Demonstrated research capability, experience, and level of commitment of the proposed research staff,
- Evidence of cooperation and commitment from persons and organizations whose support is essential for the conduct of the research,
- Adequacy of facilities and resources for carrying out the proposed research,
- Reasonableness of the budget, and
- Reasonableness of demands on human subjects and adequacy of their protection.

Council review is based on policy considerations as well as scientific merit.

Award Criteria

Factors considered in determining which research applications will be funded include technical peer review and Council recommendations, availability of funds, and the need to assure variety in the type of health services research being supported so that, for example, no one clinical condition receives all available funds.

Further Information and Technical Assistance

Further information on particular aspects of MEDTEP may be obtained by contacting the following individuals:

Information on medical effectiveness/patient outcomes research: Ira E. Raskin, Ph.D., Acting Director, Center for Medical Effectiveness Research, room 18A–19, Parklawn Building, 5600 Fishers Lane, Rockville, MD; (301) 443–0782.

Information on data base research: J. Michael Fitzmaurice, Ph.D., Acting Director, Office of Science and Data Development, room 18A–03, Parklawn Building, 5600 Fishers Lane, Rockville, MD; (301) 443–5652.

Information on dissemination research: Margaret A. Van Amringe, Director, Center for Research Dissemination and Liaison, room 18–12, Parklawn Building, 5600 Fishers Lane, Rockville, MD; (301) 443–2904.

Technical assistance on budgets and other administrative matters: Ralph L. Sloat, Grants Management Officer, room 18A–27, Parklawn Building, 5600 Fishers Lane, Rockville, MD; (301) 443–4033.

MEDTEP research is described in the Catalog of Federal Domestic Assistance (CFDA) No. 13.180, "Medical Treatment Effectiveness Research." The review requirements of Executive Order 12372 are not applicable to AHCPR grant programs.

Dated: June 14, 1990.

J. Jarrett Clinton,

Acting Administrator, Assistant Surgeon General.

[FR Doc. 90–19071 Filed 8–13–90; 8:45 am]

BILLING CODE 4160–17–M

Agency For Toxic Substances and Disease Registry

[ATSDR–21]

Availability of Final Versions of Toxicological Profiles

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Public Health Service (PHS), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice announces the availability of the final versions of each of the second set of 25 toxicological profiles prepared by ATSDR.

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund), as amended by the Superfund Amendments and Reauthorization Act (SARA) (Pub. L. 99–499) requires the ATSDR compile a priority list of at least 100 hazardous substances most commonly found at facilities on the CERCLA National Priorities List (NPL), and which are determined to pose the most significant potential threat to human health. The list identifying the first 100 hazardous substances was published in the Federal Register on April 17, 1987 (52 FR 12866), as required by CERCLA section 104(i)(2)(A). Section 104(i)(3) of CERCLA further requires that the Administrator of ATSDR prepare toxicological profiles for the hazardous substances include on the priority list.

Notice of the availability of drafts of the second set (25) of toxicological profiles for public review and comment was published in the Federal Register on December 20, 1988 (53 FR 51192), with notice that a 90-day public comment period would be provided for each profile, starting from the actual release date. Following the close of each comment period, chemical-specific comments were addressed, and where appropriate, changes were incorporate into each profile. The public comments, the classification of and response to those comments, and other data submitted in response to the Federal Register notice bear the docket control number ATSDR–7. This material is available for public inspection at the Division of Toxicology, Agency for Toxic Substances and Disease Registry, Building 37, Executive Park Drive, Atlanta, Georgia, between 8 a.m. and 4:30 p.m. Monday through Friday except legal holidays.

Availability

This notice announces the availability of each of the second set (25) of ATSDR's final toxicological profiles for

the first 50 substances as mandated by CERCLA. Additional final profiles will be announced in the Federal Register as they become available. The following toxicological profiles are now available through the U.S. Department of Commerce, National Technical Information Service (NTIS), Springfield, VA 22161:

Toxicological profile	NTIS order No.	CAS No.
Benzidine	PB/90/168204/AS	92-87-5
Bis(2-chloroethyl) ether	PB/90/168683/AS	111-44-4
Bis(chloromethyl) ether	PB/90/168691/AS	542-88-1
Bromodichloromethane	PB/90/167461/AS	75-27-4
Carbon tetrachloride	PB/90/168196/AS	56-23-5
Chlordane	PB/90/168709/AS	57-74-9
Chloroethane	PB/90/181264/AS	75-00-3
p,p'-DDT,DDE,DDD	PB/90/182171/AS	72-55-9, 50-29-3
3,3-Dichlorobenzidine	PB/90/171455/AS	91-94-1
1,2-Dichloroethane	PB/90/171422/AS	107-06-2
1,1-Dichloroethane	PB/90/182114/AS	75-35-4
1,2-Dichloropropane	PB/90/182122/AS	78-87-5
2,4- and 2,6-Dinitrotoluene	PB/90/171430/AS	121-14-2, 606-20-2
Hexachlorocyclohexane	PB/90/171406/AS	319-84-6, 58-89-9, 319-85-7, 319-86-8
Isophorone	PB/90/180225/AS	78-59-1
Mercury	PB/90/181256/AS	7439-97-6
N-nitrosodimethylamine	PB/90/182130/AS	62-75-9
N-nitrosedi-n-propylamine	PB/90/180258/AS	621-64-7
Pentachlorophenol	PB/90/182163/AS	87-86-5
Phenol	PB/90/181249/AS	108-95-2
Selenium	PB/90/182155/AS	7782-49-2
1,1,2,2-Tetrachloroethane	PB/90/182148/AS	79-34-5
Toluene	PB/90/198904/AS	108-88-3
1,1,2-Trichloroethane	PB/90/196411/AS	79-00-5
Zinc	PB/90/171414/AS	7440-66-6

FOR FURTHER INFORMATION CONTACT: Lisa M. Holman, Agency for Toxic Substances and Disease Registry, Division of Toxicology (E-29), 1600 Clifton Road NE., Atlanta, Georgia 30333, Telephone: (404-639-0730).

Dates: August 7, 1990.

William L. Roper,

Administrator, Agency for Toxic Substances and Disease Registry.

[FR Doc. 90-19035 Filed 8-13-90; 8:45 am]

BILLING CODE 4160-70-M

Food and Drug Administration

[Docket No. 90F-0248]

The Dow Chemical Co; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that The Dow Chemical Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of acetate as replacement ion for ion exchange resins in the purification of coffee.

FOR FURTHER INFORMATION CONTACT: Roslie M. Angeles, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204 202-426-5487.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that The Dow Chemical Co., 1803 Bldg., Door 7, Midland, MI 48674, has filed a petition (FAP OA4214), proposing that the food additive regulations be amended to provide for the safe use of acetate as replacement ion for ion exchange resins in the purification of coffee.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the Federal Register in accordance with 21 CFR 25.40(c).

Dated: August 7, 1990.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 90-19030 Filed 8-9-90; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 90M-0233]

Steridyne Laboratories, Inc.; Premarket Approval of Steridyne

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Steridyne Laboratories, Inc., Hollywood, CA, for premarket approval, under the Medical Device Amendments of 1976, of the Steridyne Sterile Preserved Saline Solution. The device is to be manufactured under an agreement with Visioncare Laboratories, Inc., Los Angeles, CA, which has authorized Steridyne Laboratories, Inc., to incorporate information contained in its approved premarket approval application for the VIS-SOL™ Saline Solution for Sensitive Eyes. FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of July 5, 1990, of the approval of the application.

DATES: Petitions for administrative review by September 13, 1990.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Room 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David M. Whipple, Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 1390 Piccard Drive, Rockville, MD 20850, 301-427-1080.

SUPPLEMENTARY INFORMATION: On December 7, 1989, Steridyne Laboratories, Inc., Hollywood, CA 90068, submitted to CDRH an application for permarket approval of the Steridyne Sterile Preserved Saline Solution. The device is indicated for use to keep lenses wet during heat (thermal) disinfection, rinsing, and storage of soft (hydrophilic) contact lenses. The application includes authorization from Visioncare Laboratories, Inc., Los Angeles, CA 90048, to incorporate information contained in its approved permarket approval application for the VIS-SOL™ Saline Solution for Sensitive Eyes.

On July 5, 1990, CDRH approved the application by a letter to the applicant from the Director of the office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDHR—contact David M. Whipple (HFZ-460), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any increased person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before September 13, 1990, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sections 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: August 2, 1990.

Elizabeth D. Jacobson,

Acting Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 90-18981 Filed 8-13-90; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Statement of Organization, Functions, and Delegations of Authority

Part F. of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Health Care Financing Administration (HCFA), (**Federal Register**, Vol. 54, No. 12, pg. 2230, dated January 19, 1989) is amended to reflect functional changes for the Division of Operational Systems Development, Office of Program Operations Procedures, Bureau of Program Operations, in the Office of the Associate Administrator for Operations. Due to the repeal of the Medicare Catastrophic Coverage Act of 1988, references to expanded program responsibility to provide payment for outpatient prescription drugs are being deleted from the functional statement.

The specific amendment to part F. is described below:

- Section FP.20.A.3.c., Division of Operational Systems Development (FPA85) is amended by deleting the functional statement in its entirety and replacing it with the following functional statement:

c. Division of Operational Systems Development (FPA85)

1. Designs, develops and manages, at the national level, activities required to implement new systems for improvement of the Medicare eligibility systems, part A and part B claims processing systems and the Medicare program data base.

2. Prepares systems plans and develops policies for the design, implementation, and evaluation of shared systems and standardized modules for use by Medicare carriers, intermediaries, and hosts.

3. Directs the design, development testing and implementation of innovative systems designed to improve national Medicare claims operations including the Common Working File and shared claims processing systems.

4. Provides national analysis and planning for new Medicare systems required by legislative initiatives.

5. Evaluates HCFA-wide systems plans for their impact on functions related to part A and part B of Medicare.

6. Integrates new systems within the framework of HCFA policies, goals and objectives in an efficient and cost effective manner and coordinates new systems initiative activities with other HCFA components, the Social Security Administration, HCFA regional offices, provider groups and other affected organizations.

7. Develops, monitors and evaluates budgets and budget forecasts for contractor based operations including participation in long range procurement planning support to procurement officials.

Dated: August 3, 1990.

Robert A. Streimer,

Associate Administrator for Management.

[FR Doc. 90-19084 Filed 8-13-90; 8:45 am]

BILLING CODE 4120-03-M

Indian Health Service

Availability of Funds for Loan Repayment Program for Health Professions Educational Loans

AGENCY: Indian Health Service, PHS, HHS.

ACTION: Notice.

SUMMARY: The Indian Health Service (IHS) announces that $3,000,000 in Fiscal Year (FY) 1990 grant funds is available for the repayment of health professions educational loans in return for full-time clinical service in Indian health programs. This program is authorized by Public Law 100-713, "Indian Health Care Amendments of 1988", enacted on November 23, 1988. Through this notice, the IHS invites potential applicants to request an application for participation in the Loan Repayment Program. The IHS estimates that approximately 50 loan repayment awards may be made with this funding.

DATE: Applications for this program will be accepted through September 15, 1990. Awards will be made from September 13, 1990 through September 15, 1990.

Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or

2. Sent on or before the deadline and received in time for submission to the review panel. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.

Applications received after the announced closing date will be held for consideration in the next funding cycle.

FORM TO BE USED FOR APPLICATION: Applications will be accepted only if they are submitted on the form entitled "Application for the National Health Service Corps (NHSC) and Indian Health Service (IHS) Loan Repayment Programs (LRP), which is also identified with the Office of Management and Budget approval number of OMB #0915-0127.

ADDRESS: Application materials may be obtained by calling or writing to the address below. In addition, completed applications should be returned to: IHS Loan Repayment Program, 12300

Twinbrook Parkway, Suite 100, Rockville, Maryland 20852, PH: 800/962-2817 or 301/443-4242 (between 8:00 a.m. and 5:00 p.m. E.S.T. Monday through Friday, except Federal holidays).

FOR FURTHER INFORMATION CONTACT:

Wesley J. Picciotti, Chief, IHS Loan Repayment Program, PH: 301/443-6197 (This is not a toll-free number)
or
Darrell E. Pratt, Chief, Health Manpower Support Branch, PH: 301-443-4242 (This is not a toll-free number).

PROGRAM AND BUSINESS CONTACT: All questions regarding the program and business aspects of this program should be directed to: Wesley J. Picciotti, Chief, IHS Loan Repayment Program, 12300 Twinbrook Parkway, Suite 100, Rockville, Maryland 20852, Telephone: 301-443-6197 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The IHS Loan Repayment Program is authorized by Public Law 100-713, Indian Health Care Amendments of 1988, enacted November 23, 1988, which states in pertinent part as follows:

The Secretary, acting through the Service, shall establish a program to be known as the Indian Health Service Loan Repayment Program (hereinafter referred to as the 'Loan Repayment Program') in order to assure an adequate supply of trained physicians, dentists, nurses, nurse practitioners, physician assistants, clinical and counseling psychologists, graduates of schools of public health, graduates of schools of social work, and other health professionals necessary to maintain accreditation of, and provide health care service to Indians through, Indian health programs.

This program is designed to address problems the IHS is facing with regard to staffing shortages. Only individuals who are or will be in full-time clinical practice in an Indian health program may participate in this program. For the purposes of this program, the term 'Indian health program' is defined as follows:

Any health program or facility funded, in whole or in part, by the IHS for the benefit of American Indians and Alaska Natives and administered:

a. Directly by the service;

b. By any Indian tribe or tribal or Indian organization pursuant to a contract under;

1) The Indian Self-Determination Act; or

2) Section 23 of the Act of April 30, 1908 (25 U.S.C. 47), popularly known as the Buy Indian Act; or

3) By an urban Indian organization pursuant to title V of Public Law 100-713.

Applicants may sign agreements with the Secretary for two or three years. In return for the service required by the contract, the IHS will repay health professions educational loans for tuition and reasonable educational and living expenses in amounts up to $25,000 per year for each year of contracted service.

Participants will be required to fulfill their contract service agreements through full-time clinical practice at a designated priority site. The IHS will designate these sites annually. In general, they are sites characterized by physical, cultural, and professional isolation, and have histories of frequent staff turnover. Sites may be IHS facilities or other Indian health program facilities as defined above.

There are several separate, but not necessarily exclusive, groups of priority sites. These are for the priority medical specialities, other medical specialities, nursing and other health professions. Program participants may match to any available and appropriate vacancy to complete their obligation. A listing of the priority sites for each profession will be found in the program application packet.

For physicians and other health professionals, except registered nurses, who contract to serve in a designated priority site, the IHS will repay health professions loans for tuition and reasonable educational and living expenses as shown in the following table:

LOAN REPAYMENT MATRIX

Profession	Length of contract	Level of site	Maximum amount payable per year	Maximum total amount of contract
Nurse	2 Years	All	$25,000	$50,000
	3 Years	All	25,000	75,000
Priority Medical Specialties	2 Years	All	25,000	50,000
	3 Years	All	25,000	75,000
All Others	3 Years	All	25,000	75,000
	2 Years	Tier I	25,000	50,000
	2 Years	Tier II	20,000	40,000
	2 Years	Tier III	18,750	37,500

Special provisions are made for nurses, nurse practitioners and the priority medical specialties because the IHS faces severe shortages of these individuals. It is hoped that this allowance will attract sufficient numbers of these individuals to alleviate these shortages.

In addition to the above-mentioned payments to lenders, in any case in which payments on behalf of the applicant under the Loan Repayment Program result in an increase in Federal, State, or local income tax liability for such applicant, the Secretary may, at the request of the applicant, make payments to the applicant in reasonable amount, as determined by the Secretary, to reimburse the applicant for all or part of the increased tax liability of the applicant.

Upon approval of the applicant for participation in the Loan Repayment Program, his/her application will be referred to appropriate recruiters to facilitate the applicant's locating an acceptable position. Priority in funding will be given to Indian applicants and those applicants recruited by an Indian tribe or tribal or Indian organization. Indian preference for employment in the IHS will be granted at the time of application for a specific position and in accordance with established IHS policies and procedures. See the Loan Repayment Program Information Bulletin, which may be obtained by writing to the address or calling the number listed in the "ADDRESS" portion of this Notice, for further discussion of this process.

The IHS has developed lists of priority sites, which include all Indian health programs, as defined above.

These sites have been separated in three tiers as a means of defining their relative need and priority. The tiers have the following meanings.

Tier I: The most difficult to recruit for sites and specialties. The sites are characterized by geographic, professional and cultural isolation and rapid staff turnover. Positions in the priority specialties are designated as Tier I, irrespective of location.

Tier II: Somewhat less difficult to recruit for sites. The isolation and

turnover factors are not as severe as they are for Tier I sites.

Tier III: All sites not designated as Tier I or Tier II.

The first priorities in making awards in this program will be given to qualified physician (MD or DO) practitioners of the priority specialties and other physicians and nurses who agree to serve at Tier I sites. If funds are available after awards are made to the highest priority group, qualified physicians and registered nurses who agree to serve at Tier II sites will be funded. If funds are still available after the first and second priority groups are accepted into the program, qualified physicians and registered nurses who agree to go to Tier III sites and other health professions will be funded. Priority in funding applicants from other health professions will also be granted by tier, with Tier I sites having the highest priority, Tier II sites being second, and Tier III sites, third.

For FY 1990, the Director of IHS has determined that physicians and registered nurses will receive priority in funding for the Loan Repayment Program. Applications will be accepted from members of all health professions during the application period and individuals will be matched to sites. However, professionals other than physicians and registered nurses will not be funded until it is clear that funds will remain after physicians in the priority specialties and physicians and registered nurses who match to Tier I and Tier II sites have been funded. The priorities for funding participants in the program are as follows:

1. Physicians who are certified in or eligible to sit for the certifying examination of the following specialty boards: general surgery, obstetrics/gynecology, orthopedic surgery, ophthalmology, otorhinolaryngology/otolaryngology, anesthesiology, radiology and psychiatry.

2. Physicians in other specialties as the needs of the Service require.

3. Registered Nurses.

4. Other health professions.

5. Physicians and nurses in their final year of training.

The specialties listed in number 1 above, are required to permit the IHS to fulfill its responsibilities to provide a full range of health care.

Any individual who enters this program and satisfactorily completes his/her obligated period of service may, if funds are available, apply to extend the contract on a year-by-year or multi-year basis, as determined by the IHS, at the $25,000 per year rate. The maximum amount to be funded in this manner may not exceed the total of the individual's outstanding qualified educational loans.

Applicants must:

A. Meet one of the following requirements

1. Be enrolled as a full-time student in the final year of a course of study or program leading to a degree in a health profession in an accredited school in a State. (The term "State" includes, in addition to the several States, only the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau); or

2. Be enrolled in an approved graduate training program in a health profession; or

3. Have a degree in medicine, osteopathy, dentistry, or other health profession; and have completed an approved graduate training program in medicine, osteopathy, dentistry, or other health profession in a State, and have a license to practice medicine, osteopathy, dentistry, or other health profession in a State, except that the Secretary may waive the requirement of graduate training for good cause shown; and

B. Be eligible for, or hold an appointment as a Commissioned Officer in the Regular or Reserve Corps of the Public Health Service, or meet the professional standards for civil service employment in the IHS or be employed in an Indian health program without a service obligation; and

C. Submit an application to participate in the Loan Repayment Program; and

D. Sign and submit to the Secretary, at the time of the submission of such application, a written contract agreeing to accept repayment of educational loans and to serve for the applicable period of obligated service in a priority site as determined by the Secretary; and

E. Sign an affidavit attesting to the fact that they have been informed of the relative merits of the U.S. Public Health Service Commissioned Corps and the Civil Service as employment options.

Selections among qualified applicants will be based upon consideration of the following factors:

- Length of current employment in the IHS, tribal or urban program (employees with the greatest length of service will receive higher consideration);
- Agreement to serve for three years, as opposed to two years;
- Post-graduate training in a specialty or profession most needed by the IHS;
- Board eligibility or certification by start of service (medical);
- A former IHS, tribal or urban program employee with experience in a priority site;
- A former National Health Service Corps (NHSC) Scholarship Program participant with experience in an IHS, tribal, urban program or NHSC site, who has or will complete the service obligation on or before September 30, 1990;
- Experience in a post-residency practice in a primary care Health Manpower Shortage Area (HMSA); and/or
- References from persons having direct knowledge of the applicant's professional capability.

Any individual who owes an obligation for health professional service to the Federal Government or to a State or other entity under an agreement with such State or other entity is ineligible for the Loan Repayment Program unless such an obligation will be completely satisfied prior to the beginning of service under this program in the year that an application is made for this program.

This program is not subject to review under Executive Order 12372.

The Catalog of Federal Domestic Assistance number is 13.164.

Dated: May 2, 1990.

Everett R. Rhoades, M.D.,

Assistant Surgeon General, Director.

[FR Doc. 90–19031 Filed 8–13–90; 8:45 am]

BILLING CODE 4160–16–M

Social Security Administration

Supplemental Security Income Modernization Project; Meeting

AGENCY: Social Security Administration, HHS.

ACTION: Notice of meeting.

SUMMARY: The Social Security Administration (SSA) announces a meeting on the Supplemental Security Income (SSI) Modernization Project (the Project). This notice also describes the proposed agenda, purpose, and structure of the Project.

DATES: September 11–12, 1990, 9 a.m. to 5 p.m.

ADDRESSES: Hubert H. Humphrey Building, room 800, 200 Independence Avenue, Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: SSI Modernization Project Staff, rm. 300, 6401 Security Boulevard, Baltimore, MD 21235, (301) 965–3571.

SUPPLEMENTARY INFORMATION: SSA is undertaking a comprehensive examination of the SSI program,

reviewing its fundamental structure and purpose. The SSI program has been in operation over 16 years. The purpose of the Project is to determine if the SSI program is meeting and will continue to meet the needs of the population it is intended to serve in an efficient and caring manner, recognizing the constraints in the current fiscal climate.

The first phase of this Project is intended to create a dialogue that provides a full examination of how well the SSI program serves the needy, aged, blind, and disabled.

To begin this dialogue, the Commissioner of Social Security has involved 26 people who are experts in the SSI program and/or related public policy areas. The experts include a wide range of representatives of the aged, blind, and disabled from private and nonprofit organizations and Federal and State government as well as former SSA staff. Like members of the public attending this meeting, the experts will be able to express their individual views and concerns about the SSI program. Dr. Arthur S. Flemming, former Secretary of Health, Education, and Welfare, will chair the meeting. The purpose of this initial dialogue is to exchange ideas and existing information about the program. This exchange will facilitate the sharing of ideas among attendees' constituencies, including advocacy groups, state and local government and academicians. The outcome will be a more informed public that has an interest in bringing individually produced innovative ideas for change in the SSI program to the Modernization Project.

The meeting is open to the public to the extent that space is available. Public officials, representatives of professional and advocacy organizations, concerned citizens, and SSI applicants and recipients may speak and submit written comments on the issues to be discussed. (This is the second in a series of meetings to be held in Washington, DC and elsewhere throughout the country. Each of these meetings will also be open to the public. All meetings will be announced in the **Federal Register**. If you are interested in the Project but cannot attend the meeting on September 11–12, 1990, please call the project staff at (301) 965–3571 so we may notify you of future meetings.)

There will be a public comment portion of the meeting beginning in the afternoon of September 11, 1990. A second public comment session will be held on September 12, 1990, in the morning. In order to ensure that as many speakers as possible are given the opportunity in the time allotted for public comment, each person will be limited to a maximum of 10 minutes. Because of the time limitation, individuals are requested to present comments in their order of importance. A written copy of comments should be prepared and presented to us, preferably in advance of the meeting. To ensure our full understanding and consideration of all of each speaker's concerns, we welcome written comments that provide a detailed and elaborative discussion of the subjects presented orally, as well as further written comments on other issues not presented orally. Persons unable to attend the meeting also may submit written comments. Written comments will receive the same consideration as oral comments.

To request to speak, please telephone the Project Staff, at (301) 965–3571, and provide the following: (1) Name; (2) business or residence address; (3) telephone number (including area code) during normal working hours; (4) capacity in which presentation will be made; i.e., public official, representative of an organization, or citizen; and (5) time of day desired. To guarantee an opportunity to speak, requests must be received by September 4, 1990. Late requests to speak will be honored, if time permits.

A transcript of the meeting will be available at an at-cost basis. Transcripts may be ordered from the Project Staff. The transcript and all written submissions will become part of the record of these meetings.

(Catalog of Federal Domestic Assistance Programs No. 13.807— Supplemnted Security income.)

Dated: August 3, 1990.

Peter D. Spencer,

Director, SSI Modernization Project Staff.

[FR Doc. 90–18985 Filed 8–13–90; 8:45 am]

BILLING CODE 4190–11–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–050–00–4211–10]

Management Framework Plans, Etc.: Utah

AGENCY: Bureau of Land Management (BLM), Utah, Interior.

ACTION: This notice of availability is to advise the public that the environmental assessment and proposed planning amendment for the Henry Mountain Management Framework Plan (MFP) for the Henry Mountain Resource Area to allow the State of Utah to make a State Indemnity Selection of 640 acres is available for public review.

The lands being considered as suitable for the State to select are described as follows:

Salt Lake Meridian

T. 37 S., R. 11 E., sec. 20.

Containing 640 acres in Garfield County, Utah.

The existing plan does not identify these lands as suitable for disposal. However, because of the resource values, public values, and objectives involved, the public interest may be well served by providing these lands to the State.

A 30-day protest period for the planning amendment will commence with publication of this Notice of Availability.

FOR FURTHER INFORMATION CONTACT: Rod Lee, Richfield District Office, 150 East 900 North, Richfield, Utah 84701, (801) 896–8221.

SUPPLEMENTARY INFORMATION: This action is announced pursuant to section 202(a) of the Federal Land Policy and Management Act of 1976 and 43 CFR part 1610. The proposed planning amendment is subject to protest from any adversely affected party who participated in the planning process. Protests must be made in accordance with the provisions of 43 CFR 1610.5–2. Protests must be received by the Director of the Bureau of Land Management, 18th and C Street NW., Washington, DC 20240, within 30 days after the date of publication of this Notice of Availability for the proposed planning amendment.

Dated: August 8, 1990.

James M. Parker,

State Director.

[FR Doc. 90–19000 Filed 8–13–90; 8:45 am]

BILLING CODE 4310–DQ–M

[AZ–020–08–4218–01]

Meetings; Phoenix District Advisory Council

AGENCY: Bueau of Land Management, Interior.

ACTION: Notice of meeting of the Phoenix District Advisory Council.

DATE: October 3, 1990.

ADDRESS: 2015 West Deer Valley Road, Phoenix, Arizona

SUMMARY: The Phoenix District Advisory Council of the Bureau of Land Management meets October 3 at the Phoenix District Office, 2015 West Deer Valley Road, Phoenix, at 9 a.m. to discuss and make recommendations on various public land issues.

The Council has been established by and will be managed according to the Federal Advisory Committee Act of 1972, the Federal Land Policy and Management Act of 1976, and the Public Rangelands Improvement Act of 1978. The agenda for the meeting includes:

——Kingman Resource Management Plan
——Phoenix Resource Management Plan Amendment
——Santa Maria Allotment AMP and EA
——Land Exchanges
——Southwest Regional Landfill
——Wilderness Legislation
——Barry M. Goldwater Range
——BLM Management Updates
——Business from the Floor
——Public Comments and Statements
——Future Meetings and Agenda Topics.

SUPPLEMENTARY INFORMATION: This is a public meeting and the Bureau of Land Management welcomes the presentation of oral statements or the submission of written statements that address the issues on the meeting agenda or related matters.

Dated: August 3, 1990.

Henri R. Bisson,

District Manager.

[FR Doc. 90-18995 Filed 8-13-90; 8:45 am]

BILLING CODE 4310-32-M

[NV020-4331-10]

Winnemucca District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Winnemucca District Advisory Council Meeting.

SUMMARY: Notice is hereby given in accordance with Public Law 92-463 that a meeting of the Winnemucca District Advisory Council will be held on Monday, September 24, 1990. The meeting will begin at 8:00 a.m. in the conference room of the Bureau of Land Management Office at 705 East 4th Street, Winnemucca, Nevada 89445.

The Agenda for the meeting will include:

1. Nation Conservation Area Proposal for the Black Rock Desert/High Rock Area.

The meeting is open to the public. Interested persons may make oral statements to the Council at 10:00 a.m. on September 24th or file written statements for the Councils consideration. Anyone wishing to make an oral statement must notify the District Manager by September 21st, 1990. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the Council meeting will be maintained in the District Office and will be available for public inspection (during regular business hours) within 30 days following the meeting.

Dated: August 6, 1990.

Ron Wenker,

District Manager.

[FR Doc. 19021 Filed 8-13-90; 8:45 am]

BILLING CODE 4310-HC-M

[AK-932-00-4214-10; AA-57981]

Transfer of Jurisdiction and Opening of Public Lands; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice transfers and opens land received through an exchange agreement between Shee Atika, Incorporated, Sealaska Corporation, and the United States of America, acting through the Secretary of the Interior. The purpose of the exchange was to rectify an erroneous conveyance to Shee Atika and Sealaska of lands and interests in lands previously used by the Forest Service in conjunction with visitor sites.

EFFECTIVE DATES: September 13, 1990.

FOR FURTHER INFORMATION CONTACT: Sandra C. Thomas, BLM Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513-7599, 907-271-5477.

SUPPLEMENTARY INFORMATION: 1. In an exchange pursuant to sections 1302(h) and 1434 of the Alaska National Interest Lands Conservation Act of 1980, 94 Stat. 2371, and section 22(f) of the Alaska Native Claims Settlement Act, 85 Stat. 688, as amended by section 17 of Pub. L. 94-204, 89 Stat. 1156, the surface and subsurface estates of the following described land located in the vicinity of Katlian Bay, were reconveyed to the United States by warranty deeds dated March 19, 1986:

Copper River Meridian

T. 54 S., R. 64 E.,
Sec. 28, SW¼NE¼.

The area described contains approximately 40 acres.

2. Title to the above described land was accepted by the United States on March 20, 1986, and as such is deemed public land pursuant to 43 CFR 2200.3(a). In accordance with 43 CFR 2200.0-7(a) and 2200.3(c), this land is hereby transferred to the Secretary of Agriculture as part of the Tongass National Forest and is subject to all laws and regulations applicable to National Forest System lands.

3. At 10 a.m. on September 13, 1990, the land will be opened to such forms of disposition as may by law be made of National Forest System land, including location and entry under the United States mining laws. Appropriation of any of the land described in this order 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. 38 (1988), 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 determinations in local courts.

Sue A. Wolf,

Chief, Branch of Land Resources.

[FR Doc. 90-18996 Filed 8-13-90; 8:45 am]

BILLING CODE 4310-JA-M

[CA-060-00-5440-10-ZBBB; CA-26872]

Exchange of Public and Private Lands, Riverside County, CA; Realty Action

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action; Exchange of Public and Private Lands, CA-26872.

SUMMARY: The following described lands located in Riverside County are being considered for disposal by exchange under the authority of section 206 of the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1716):

Some of the lands described below may be deleted from consideration to eliminate possible conflicts that could arise during processing, in the achievement of equal values between the offered and selected lands in the exchange, or adjusted following the completion of cadastral surveys. The final selection of properties will be made to achieve comparable values between the offered and selected lands.

Selected Public Lands

All remaining public lands located in:

San Bernardino Meridian

Township 3 South, Range 14 East,
Secs.: 25, 26, 34, 35, and 36.
Township 4 South, Range 14 East,

Secs.: 1, 2 and 3.
Township 4 South, Range 14 East,
Secs.: 1, 2, 3, 6, 11, and 12.
Township 4 South, Range 15 East,
Secs.: 4, 5, 6, and 7.

In exchange for these lands, the Federal Government will acquire from Kaiser Steel Resources the following described non-Federal lands in Riverside County, California.

Offered Private Lands

San Bernardino Meridian

Township 5 South, Range 14 East,
Sec. 27: N½, N½S½; N½S½S½.
Township 6 South, Range 14 East,
Sec. 16: W½W½; Sec. 21: W½.
Township 7 South, Range 14 East,
Sec. 5: All.
Township 7 South, Range 13 East,
Sec. 31: Described by metes and bounds(*).
Township 7 South, Range 12 East,
Sec. 35: (*); Sec. 36: Described by metes and bounds (*).
Township 8 South, Range 11 East,
Sec. 13: NE¼.
Township 8 South, Range 11 East,
Sec. 23: Described by metes and bounds(*).
Township 8 South, Range 11 East,
Sec. 21: E½SE¼.

(*) Only those lands owned by Kaiser Steel Resources within these legal descriptions.

SUPPLEMENTARY INFORMATION: The Bureau of Land Management and Riverside County are jointly preparing an Environmental Impact Statement/Report for a municipal solid waste disposal facility. A portion of the proposed project would involve the disposal of the Federal Lands within the project area by exchange. This Notice of Realty Action addresses only the exchange element of the proposed project. Public involvement specific to other aspects of the proposed project must be made through the Environmental Impact Statement/Report processes.

In the proposed exchange, the offered non-federal lands are located within and adjacent to the Chuckwalla Bench and Dos Palmas Areas of Critical Environmental Concern designated in the California Desert Conservation Plan. Respectively, these areas contain habitat for the Desert Tortoise, a Federally listed threatened species, and riparian habitat supporting two Federally listed endangered species, the Yuma Clapper Rail and Desert Pupfish.

Lands to be transferred from the United States will be subject to the following reservations, terms and conditions:

1. A reservation to the United States for a right-of-way for ditches and canals constructed under the authority of the Act of August 20, 1890 (43 U.S.C. 945).

2. Reservations, if any, for authorized pipelines, powerlines, roads, highway, telephone lines, mineral leases and other authorized land uses identified as prior existing rights. A specific listing of these valid existing rights is available at the Palm Springs-South Coast Resource Area Office.

3. All necessary clearances for cultural and historical resources, Threatened and Endangered Plants and Animals shall be completed prior to conveyance of title by the United States.

This notice segregates the above-described public lands being considered for exchange from the operation of the public land laws and the mining laws as provided for in 43 CFR 2201.1(b). This segregative effect will expire upon issuance of patent or upon publication in the **Federal Register** of a notice terminating the segregation two (2) years from the date of publication, whichever occurs first.

For further information concerning the exchange proposal contact the Area Manager, BLM Palm Springs-South Coast Resources Area, at (619) 323–4421.

For a period of 45 days after publication of this notice in the **Federal Register**, interested parties may submit comments specific to the exchange proposal to the District Manager, California Desert District, 1695 Spruce Street, Riverside, CA 92507. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any adverse comments, this realty action will become the final determination of the Department of the Interior.

Dated: August 6, 1990.

Gerald E. Hiller,

District Manager.

[FR Doc. 90–19016 Filed 8–13–90; 8:45 am]

BILLING CODE 4310-40-M

[NV-930-00-4212-11; N-51528]

Notice of Realty Action; Lease for Recreation and Public Purposes in Elko County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Recreation and Public Purposes; Lease/Conveyance.

SUMMARY: The following described lands have been examined and found suitable for classification for lease, with the option to purchase after development, under the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869 *et seq.*). The lands would not be offered for lease until at least 60 days after the date of publication of this notice in the **Federal Register.**

Mount Diablo Meridian, Nevada

T. 34 N., R. 55 E.,
Sec. 3, SE¼SW¼NW¼, SW¼SE¼NW¼, E½NW¼SW¼, W½NE¼SW¼.

Containing 60 acres.

The city of Elko has made application for, and intends to use the site to construct an additional nine holes for the existing Elko municipal golf course. The lease/patent, when issued, would be subject to the provisions of the Recreation and Public Purposes Act, applicable regulations of the Secretary of the Interior, and would contain the following reservations to the United States:

1. All minerals.

2. A right-of-way theron for ditches and canals.

Initially the lands would be leased, and after substantial development of the parcel, may be purchased by the city under the special pricing program afforded to government entities.

The land is not required for any Federal purpose. The classification and the lands subsequent lease/conveyance are consistent with the Bureau's planning for the area.

Upon publication of this Notice of Realty Action in the **Federal Register**, the subject lands will be segregated from appropriation under any other public land law, including locations under the mining laws. The segregative effect shall terminate upon issuance of a patent or as specified in an opening order to be published in the **Federal Register**, whichever occurs first.

Detailed information concerning this action is available for review at the Bureau of Land Management, Elko District Office, 3900 E. Idaho St., Elko, Nevada. For a period of 45 days from the date of publication of his notice in the **Federal Register**, interested parties may submit comments to the District Manager, Elko District Office, P.O. Box 831, Elko, Nevada, 89801. Any objections will be evaluated by the State Director, who may sustain, vacate or modify this realty action. In the absence of timely objections, the classification of the lands described in this notice will become effective 60 days from the date of publication of this notice in the **Federal Register.**

Dated: August 1, 1990.

Rodney Harris,

District Manager.

[FR Doc. 90–18997 Filed 8–13–90; 8:45 am]

BILLING CODE 4310-HC-M

[NV-930-00-4212-14; N-52872]

Realty Action: Direct Sale of Public Land in Lincoln County, NV; Ely District

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction; notice of realty action.

Federal Register document 90-17601 appearing in 55 FR 30988 of July 30, 1990, contained a partially incorrect land description relative to the sale of public lands. The part of the description reading "W½NE¼" should read "W½W½NE¼".

Dated: August 2, 1990.

Kenneth G. Walker,

District Manager.

[FR Doc. 90-19093 Filed 8-13-90; 8:45 am]

BILLING CODE 4310-HC-M

Minerals Management Service

Information Collection Submitted to the Office of Management and Budget (OMB) for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to OMB for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the proposal should be made directly to the Bureau Clearance Officer, Minerals Management Service; Mail Stop 2300; 381 Elden Street; Herndon, Virginia 22070-4817 and to the Office of Management and Budget; Paperwork Reduction Project (1010-0053); Washington, DC 20503, telephone (202) 395-7340, with copies to Gerald D. Rhodes; Chief, Branch of Rules, Orders, and Standards; Offshore Rules and Operations Division; Mail Stop 4700; Minerals Management Service; 381 Elden Street; Herndon, Virginia 22070-4817.

Title: Supart D, Drilling Operations, 30 CFR part 250

OMB Approval Number: 1010-0053

Abstract: This information is needed to ascertain the conditions of a drilling site. This is necessary to mitigate the hazards inherent in drilling operations and to increase the margin of safety of personnel and the environment. The information collection requirements are being modified to include additional information the lessees are required to submit in their hydrogen sulfide (H_2S) contingency plans. This new information will address helicopter activities during H_2S emergencies; descriptions of portable sulphur dioxide (SO_2) monitors used in the event H_2S gas is burned; monitoring procedures and personnel protection measures initiated under H_2S contingency plans when the SO_2 concentration in the atmosphere reaches 2 and 5 parts per million, respectively; and analysis of the anticipated H_2S content of produced water discharged by means other than subsurface disposal. The information collection requirements are also being updated to require that the records for well-control drills be maintained.

Bureau Form Number: None

Frequency: On occasion

Description of Respondents: Federal Outer Continental Shelf oil and gas lessees

Estimated Completion Time: 5.1 hours

Annual Responses: 1,460

Recordkeeping Hours: 15,570

Annual Burden Hours: 23,056

Bureau Clearance Officer: Dorothy Christopher, (703) 787-1239

Dated: May 31, 1990.

Ed Cassidy,

Deputy Director, Minerals Management Service.

[FR Doc. 90-19022 Filed 8-13-90; 8:45 am]

BILLING CODE 4310-MR-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-52 (Sub. 64X)]

The Atchison, Topeka & Santa Fe Railway Co.; Abandonment Exemption In Reaves County, TX; Notice of Exemption

Applicant has filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon its 40.1 mile line of railroad between Pecos Subdivision mileposts 231+2531.2 feet, near Orla, and 271+2987.8 feet, near Pecos, in Reaves County, TX.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complaint within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on September 13, 1990 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by August 24, 1990.[3] Petitions for reconsideration and requests for public use conditions under 49 CFR 1152.28 must be filed by September 4, 1990, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Dennis W. Wilson, The Atchison, Topeka and Santa Fe Railway Company, 80 East Jackson Boulevard, Chicago, IL 60604.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environment assessment (EA). SEE will issue the EA by August 17, 1990. Interested persons may obtain a copy of the EA from SEE by writing to it (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 275-

[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See* Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] *See* Exempt. of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C.2d 164 (1987).

[3] The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.

7684. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, here appropriate, in a subsequent decision.

Decided: August 8, 1990.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90–19101 Filed 8–13–90; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 31719]

Southrail Corp.; Trackage Rights Exemption Columbus and Greenville Railway Co.

Columbus and Greenville Railway Company (C&G) has agreed to grant overhead trackage rights to SouthRail Corporation (SR) over 2.23 miles of line at or near West Point, MS: (1) Existing track, extending between a point 2,627 feet south of milepost 231.0 (valuation station 12179+38), connecting SR's Artesia District track with C&G's main track, and a point 1,279 feet west of C&G milepost W–19 (valuation station 1015+99); and (2) two segments of track to be constructed that would connect with SR's Newton-Aberdeen line, one extending from valuation station 1015+99 and the other extending from a point 56 feet west of C&G milepost W–19 (valuation station 1003+76).[1] The trackage rights agreement was executed on June 27, 1990, and operations will commence soon after construction is completed.

This notice is filed under 49 CFR 1180.2(d)(7). 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 stay the transaction. Pleadings must be filed with the Commission and served on: Jill M. Hawken, Weiner, McCaffrey, Brodsky, Kaplan & Levin, Suite 800, 1350 New York Avenue NW., Washington, DC 20005, and R.D. Bell, Columbus and Greenville Railway Company, P.O. Box 6000, Columbus, MS 39703.

As a condition to the use of this exemption, any employees affected by the trackage rights will be protected pursuant to Norfolk and Western Ry. Co.—Trackage Rights—BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.—Lease and Operate, 360 I.C.C. 653 (1980).

Dated: August 7, 1990.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90–19102 Filed 8–13–90; 8:45 am]

BILLING CODE 7035–01–M

[1] SR has not indicated that it has sought Commission approval for construction of the connecting lines. It is unclear whether this construction is subject to Commission jurisdiction. If the Commission does have jurisdiction, SR must either file an application under 49 U.S.C. 10901 or seek an exemption under 49 U.S.C. 10505.

[Finance Docket No. 31708]

Gettysburg Railroad Co.; Acquisition and Continuance of Operation Exemption Commonwealth of Pennsylvania

Gettysburg Railroad Company (GRC) has filed a notice of exemption to acquire and continue to operate approximately 23.4 miles of rail line in Adams and Cumberland Counties, PA, owned by the Commonwealth of Pennsylvania (State). The line extends between Gettysburg and Mount Holly Springs, PA, (from milepost 7.8 to milepost 31.2) and GRC has operated over it for a number of years under lease arrangement with State.

GRC will acquire the entire rail line from State and sell and a small portion of it, extending less than 1 mile from Mummasburg Road to a point near Washington Street in Gettysburg, to Gettysburg College (GC). That portion of the line extends through the GC campus. GC will obtain land adjacent to its campus from the Federal government and provide a new right-of-way to GRC for relocation of the track now located on the campus. The Commission does not exercise jurisdiction over this type of relocation project. *See Denver & R.G.W.R. Co.—Jt. Proj.—Relocation over BN,* 4 I.C.C.2d 95, 97–99 (1987).

Any comments must be filed with the Commission and served on: Daniel J. Sweeney, McCarthy, Sweeney & Harkaway, P.C., 1750 Pennsylvania Avenue, NW, Washington, DC 20006.

Applicant 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 or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470.[1]

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: August 8, 1990.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90–19100 Filed 8–13–90; 8:45 am]

BILLING CODE 7035–01–M

[1] Applicant certifies that it has identified to the appropriate State Historic Preservation Office all sites and structures 50 years old or older that will be transferred as a result of this transaction.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Availability of Guidelines for Cleanup of Clandestine Drug Laboratories

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Notice of availability of guidelines for the cleanup of clandestine drug laboratories.

SUMMARY: On November 18, 1988, Congress enacted the Anti-Drug Abuse Act of 1988, Pub. L. 100–690. Section 2405 of this act mandated that the Drug Enforcement Administration (DEA) and the U.S. Environmental Protection Agency (USEPA) form a joint Federal Task Force to formulate, establish, and implement a program for the cleanup and disposal of hazardous waste produced by illegal drug laboratories. The law also required that Task Force develop and disseminate guidelines for law enforcement agencies which have responsibility for the enforcement of drug laws. The guidelines are now available for state and local agencies, and for any other interested parties.

FOR FURTHER INFORMATION CONTACT: Requests for copies of the guidelines should be addressed to: Joseph Boykevich, Drug Enforcement Administration, Office of Forensic Sciences, Hazardous Waste Disposal Unit, Washington, DC 20537. ATTN: AFSH.

SUPPLEMENTARY INFORMATION: Domestic clandestine drug laboratories are a growing problem, presenting environmental and health risks similar to those encountered at uncontrolled waste sites and other chemical emergency situations. The laboratories range from crude makeshift operations to highly sophisticated and technically advanced enterprises. In 1981, the DEA seized 184 clandestine drug laboratories. In contrast, 852 were seized in 1989.

A clandestine laboratory investigation is unique and presents many safety and health hazards. The indiscriminate disposal of hazardous waste by the

outlaw laboratory operator may lead to contamination of surrounding water sources, soil, and air as well as the building and its fixtures.

Many different toxic chemicals are used in illegal drug manufacturing. As a result, the type and scope of chemical hazards to which law enforcement officials, local populations, and the environment may be exposed are extremely diverse. Cleanup actions at these laboratory sites, including the immediate or planned removal of bulk chemicals and contaminated materials, are necessary to prevent harm to the public health and welfare and the environment. These complex issues, along with growing public environmental awareness and regulations promulgated by the U.S. Environmental Protection Agency (USEPA) and Occupational Safety and Health Administration (OSHA), require specialized training and medical programs for, and use of protective raid garments by, law enforcement personnel involved in clandestine drug laboratory seizures. The overall program implementation requires cooperation between law enforcement and health and environment entities to protect public health and the environment.

These guidelines have integrated the experience of DEA field Special Agents and Forensic Chemists and USEPA Emergency Response Technicians, various guidance documents developed by USEPA for cleaning up hazardous waste sites and health and safety programs established by DEA, USEPA, and OSHA.

The guidelines suggest that state and local law enforcement and environmental and health agencies implement a comprehensive approach to clandestine laboratory cleanup. The guidelines also outline measures which can be taken to reduce the hazards associated with clandestine drug laboratories and provide information on relevant and applicable hazardous waste statutes and regulations, such as the Resource Conservation and Recovery Act (RCRA), which may apply to clean up activities at clandestine drug laboratories.

The guidelines contain information on: chemicals commonly found at drug laboratory sites, DEA clandestine laboratory safety certification programs and personnel medical requirements for participation in the clandestine drug laboratory program. Sample forms such as contamination reports and uniform hazardous waste manifests for transporting hazardous waste, as well as additional information that may be used to develop state or local clandestine drug laboratory cleanup programs, are included.

Dated: August 7, 1990.

Terrence M. Burke,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 90-18991 Filed 8-13-90; 8:45 am]

BILLING CODE 4410-09-M

Quotas for Controlled Substances in Schedules I and II

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of established 1990 aggregate production quotas.

SUMMARY: This notice establishes revised 1990 aggregate production quotas for controlled substances in Schedule II, as required under the Controlled Substances Act of 1970.

DATES: This order is effective August 14, 1990.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 307-7183.

SUPPLEMENTARY INFORMATION: Section 306 of the Controlled Substances Act (21 U.S. Code 826) requires the Attorney General to establish aggregate production quotas for all controlled substances in Schedules I and II each year. This responsibility has been delegated to the Acting Administrator of the Drug Enforcement Administration (DEA) pursuant to § 0.100 of title 28 of the Code of Federal Regulations.

On May 21, 1990, a notice of the proposed revised 1990 aggregate production quotas for certain controlled substances in Schedule II was published in the Federal Register (55 FR 20862). All interested parties were invited to comment on or object to these proposed aggregate production quotas on or before June 20, 1990.

As to the Schedule II stimulant controlled substances, those being methylphenidate, amphetamine and methamphetamine, the American Narcolepsy Association, Inc., through their Executive Director, filed comments. The American Narcolepsy Association wished to advise the DEA of its concern about the effects of production quotas on the availability and costs of these medications. The American Narcolepsy Association requested that the DEA take whatever steps are necessary to assure that quotas never interfere with the legitimate medication needs of patients. The American Narcolepsy Association requested that the DEA established production quotas give full recognition to the potential increased medication needs of persons newly diagnosed as having narcolepsy. Also, over the past 3 to 6 months, the American Narcolepsy Association has become aware and is concerned about the difficulties of filling prescriptions for a specific product of amphetamine. The American Narcolepsy Association also requested that if the above concerns cannot be satisfied, that the DEA hold a hearing to identify the issues and assign responsibilities for their resolutions.

At this time, the DEA has reviewed the 1989 data submitted by the manufacturers of amphetamine, methamphetamine and methylphenidate and believes that the revised 1990 aggregate production quotas will be sufficient to provide for the estimated medical needs of the United States. No other comments were received.

Pursuant to sections 3(c)(3) and 3(e)(2)(C) of Executive Order 12291, the Director of the Office of Management and Budget has been consulted with respect to these proceedings.

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

The Acting Administrator hereby certifies that this matter will have no significant impact upon small entities within the meaning and intent of the Regulatory Flexibility Act, 5 U.S. Code 601 *et seq.* The establishment of annual aggregate production quotas for Schedules I and II controlled substances is mandated by law and by the international commitments of the United States. Such quotas impact predominantly upon major manufacturers of the affected controlled substances.

Therefore, under the authority vested in the Attorney General by section 306 of the Controlled Substances Act of 1970 (21 U.S. Code 826) and delegated to the Acting Administrator of the DEA by § 0.100 of title 28 of the Code of Federal Regulations, the Acting Administrator of the DEA hereby orders that the 1990 revised aggregate production quotas be established as follows:

Basic class	Established revised 1990 aggregate production quotas (expressed as grams of anhydrous acid or base)
Schedule II	
Alfentanil	3,000
Amobarbital	459,000
Amphentamine	417,000
Cocaine	663,000
Codeine (for conversion)	6,570,000
Desoxyephedrine	1,581,000
Levodesoxyephedrine	1,581,000
Methamphentamine	0
Dextropropoxyhene	85,409,000
Dihydrocodeine	201,000
Diphenoxylate	441,000
Hydrocodone	4,473,000
Hydromorphone	229,000
Levorphanol	8,200
Meperidine	9,426,000
Methadone	2,069,000
Methadone Intermediate (4-cyano-2-dimehtylamino-4,4-diphenylbutane)	2,586,000
Methylphenidate	1,768,000
Morphine (for sale)	4,707,000
Morphine (for conversion)	61,774,000
Opium (tincutures, extracts, etc. expressed in terms of USP powdered opium)	1,237,000
Oxycodone (for sale)	2,884,000
Pentobarbital	16,665,000
Phenylacetone	1,612,000
Secobarbital	370,000
Sufentanil	440

Dated: July 20, 1990.

Terrence M. Burke,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 90–18992 Filed 8–13–90; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Application; Abbott Laboratories

Pursuant to § 1301.43(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on June 15, 1990, Abbott Laboratories, ATTN: D–209, Abbott Park, Abbott Park, Illinois 60064–3500, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule II controlled substance benzoylecgonine (9187).

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than September 13, 1990.

Dated: August 6, 1990.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 90–18988 Filed 8–13–90; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Application; Johnson, Matthey, Inc.

Pursuant to § 1301.43(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on February 2, 1990, Johnson Matthey, Inc., Custom Pharmaceuticals Department, 2002 Nolte Drive, West Deptford, New Jersey 08066, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Alfentanil (9737)	II
Fentanyl (9801)	II
Sufentanil (9740)	II
Thebaine (9333)	II
Methylphenidate (1724)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than September 13, 1990.

Dated: August 6, 1990.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 90–18989 Filed 8–13–90; 8:45 am]

BILLING CODE 4410–09–M

Importation of Controlled Substances; Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in Schedule I or II prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of title 21, Code of Federal Regulations (CFR), notice is hereby given that on February 16, 1990, Research Biochemicals Incorporated, 9 Erie Drive, Natick, Massachusetts 01760, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Bufotenine (7433)	I
Etorphine (except HCl) (9056)	I
Normorphine (9313)	I
Codeine (9050)	II
Metazocine (9240)	II
Morphine (9300)	II
Thebaine (9333)	II

A maximum of 25 grams of Isomers or metabolites, not currently available in the United States, for each of the above listed substances will be imported annually and will be utilized in the manufacture of reference standards.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than September 13, 1990.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e) and (f). As noted

in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e) and (f) are satisfied.

Dated: August 6, 1990.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 90–18990 Filed 8–13–90; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background: The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review: As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions: Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, telephone (202) 523–6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue NW., room N–1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, room 3208, Washington, DC 20503 (Telephone (202) 395–6880).

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Revision

Employment Standards Administration.

OFCCP Recordkeeping/Reporting: Supply and Service.

1215–0072.

Annually.

Businesses or other for profit; Non-profit institutions; Small businesses or organizations.

153,924 Respondents; 15,281,274 Hours; Average 99.27 Hours Per Response.

Recordkeeping and reporting obligations incurred by Federal contractors/subcontractors under Executive Order 11246, section 503 of the Rehabilitation Act of 1973 and 38 USC 2012 are necessary to substantiate compliance with nondiscrimination and affirmative action requirements monitored by the Office of Federal Contract Compliance Programs (OFCCP). This revision does not in anyway revise current OFCCP regulations. The revisions consist of minor changes to the scheduling letter used in conjunction with desk audit procedures, and which have negligible impact on the overall burden hours associated with this clearance.

Extension

Employment and Training Administration.

Limitations on Tax Credit Reductions and Interest on Advance to States.

1205–0205.

Annually.

State or local governments.

1 respondent; 25 total hours; 25 hours per response; no forms The Secretary requires data and documentation from States requesting relief through a) limitations, waivers, and avoidance of offset credit reduction and b) deferrals and delays of interest payments. The data will provide the basis for annual certification for relief.

Signed at Washington, DC, this 9th day of August 1990.

Theresa M. O'Malley,

Acting Departmental Clearance Officer.

[FR Doc. 90–19085 Filed 8–13–90; 8:45 am]

BILLING CODE 4510–27–M

Office of the Assistant Secretary for Veterans' Employment and Training

Secretary of Labor's Committee on Veterans' Employment; Meeting

The Secretary's Committee on Veterans' Employment was established under section 308, title III, P.L. 97–306 "Veterans Compensation, Education and Employment Amendments of 1982," to bring to the attention of the Secretary, problems and issues relating to veterans' employment.

Notice is hereby given that the Secretary of Labor's Committee on Veterans' Employment, Subcommittee on Veterans' Employment and Training Policy, will meet on Tuesday, September 12, 1990 at 9:00 a.m. in Rooms N–3437B and C of the Department of Labor Frances Perkins Building.

Written comments are welcome and may be submitted by addressing them to: Robert L. Jones, Chairman, Subcommittee on Veterans' Employment and Training Policy, AMVETS National Headquarters, 4647 Forbes Boulevard, Lanham, MD 20706.

The primary item on the agenda is a continued discussion to outline strategies for development of a national veterans' training and employment policy.

The public is invited.

Signed at Washington, DC, this 3rd day of August, 1990.

Thomas E. Collins,

Assistant Secretary for Veterans' Employment and Training.

[FR Doc. 90–19092 Filed 8–13–90; 8:45 am]

BILLING CODE 4510–79–M

Employment and Training Administration

[TA-W-24,147]

Electro-Wire Products of Texas, Owosso, MI; Revised Determination on Reconsideration

On July 30, 1990 the Department issued an Affirmative Determination Regarding Application for Reconsideration for workers and former workers of Electro-Wire Products of Texas, Owosso, Michigan. The affirmed notice will soon be published in the Federal Register.

The Owosso, Michigan plant of Electro-Wire Products of Texas produced wire harnesses and closed on April 2, 1990 when all workers were laid off.

Findings on reconsideration show that in 1989 a substantial portion of Owosso's production of wire harnesses was transferred to affiliated plants in Mexico. All Electro-Wire's wire harnesses produced in Mexico reentered the U.S. market in 1989 and 1990 and adversely affected the work force at Owosso.

Company imports of wire harnesses increased in 1989 compared to 1988 and in the first quarter of 1990 compared to the same quarter of 1989.

Conclusion

After careful review of the additional facts obtained on reconsideration, it is concluded that increased imports of articles like or directly competitive with wire harnesses produced at Electro-Wire Products of Texas, Owosso, Michigan contributed importantly to the decline in sales or production and to the total or partial separation of workers at Electro-Wire Products of Texas, Owosso, Michigan. In accordance with the provisions of the Trade Act of 1974, I make the following revised determination:

All workers of Electro-Wire Products of Texas Owosso, Michigan who became totally of partially separated from employment on or after March 6, 1989 and before June 1, 1990 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 3rd day of August 1990.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 90-19086 Filed 8-13-90; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-24,160]

North Coast Brass & Copper Co.; Cleveland, Ohio; Negative Determination Regarding Application for Reconsideration

By an application dated July 13, 1990, after being granted a filing extension, counsel for the International Association of Machinists (IAM) requested administrative consideration of the subject petition for trade adjustment assistance. The denial notice was signed on May 10, 1990 and published in the Federal Register on May 30, 1990 (55 FR 21954).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If, in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

Counsel claims that the Department's survey was inadequate and submitted an additional list of customers and foreign competitors. Counsel states that the subject firm was adversely trade impacted because of increased imports of automobiles and trucks, radiators and radiator components. Counsel also states that the subject workers were adversely affected because of foreign fabricated brass and copper radiator components used at foreign owned transplant firms in the U.S. Finally, counsel claims the substitution of aluminum for copper in automobile radiators as having an adverse employment effect at North Coast Copper & Brass.

The investigation findings show that North Coast Brass & Copper produced copper and alloy sheet and strip. The plant closed on January 31, 1990.

In order for workers to obtain a worker group certification all three of the Group Eligibility Requirements of the Trade Act of 1974 must be met—1) A significant decrease in employment, 2) an absolute decrease in sales or production, and 3) an increase of imports of articles that are like or directly competitive with those produced at the workers' firm and which "contributed importantly" to declines in sales or production and employment at the workers' firm in the period applicable to the petition.

The Department's denial was based on the fact that the "contributed importantly" test of the Group Eligibility Requirements of the Trade Act of 1974 was not met. The "contributed importantly" test is generally demonstrated through a survey of the workers' firms customers. The Department's survey of the subject firm's major customers showed that the respondents purchased insignificant quantities of foreign-made brass and copper in the period applicable to the petition.

Investigation findings shows that the list of customers submitted by the union cannot be considered because 1) They either were found to be customers in a much earlier time period than that applicable to the petition, 2) they shifted to domestic aluminum for radiator components or 3) they began sourcing the finished articles (radiators) from foreign countries. Further, foreign owned transplant firms in the U.S. were not customers of North Coast Brass & Copper. Also, foreign competition, in itself, would not form a basis for a worker group certification .

The claim that imports of finished articles (autos and trucks and even radiators and radiator components) made from copper and brass sheet and strip adversely affected employment at the subject firm cannot be considered. The courts decided early in the administration of the worker adjustment assistance program that finished articles are not like or directly competitive with their components. This issue was addressed in *United Shoe Workers of America, AFL-CIO* v. *Bedell*, 506 F2d 174, (D.C. Cir. 1974). The court held that imported finished women's shoes were not like or directly competitive with shoe components—shoe counters. Similarly, copper and brass incorporated in the finished articles (autos and radiators) cannot be considered like or directly competitive with automobiles or automobile components made from copper and brass sheet and strip.

Also, sales and production data in the late 1970s and 1980s through 1987 are not relevant to the subject investigation. There is no purpose in collecting and evaluating such data since workers cannot be certified for adjustment assistance who were laid off prior to one year of the date of the petition. Section 223(b)(1) of the Trade Act does not permit the Department to certify workers laid off more than one year from the date of the petition which in this case in March 6, 1990.

With respect to the claim that the industry is changing from copper and

brass for radiator components to aluminum, a change in technology would not form a basis for a worker group certification.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 7th day of August 1990.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 90–19088 Filed 8–13–90; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–24,298]

Lennon Wallpaper, Shorewood, IL; Amended Certification Regarding Eligibility To Apply for Work Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on June 11, 1990, applicable to all workers of Lennon Wallpaper, Shorewood, Illinois. The notice was published in the Federal Register on June 26, 1990 (55 FR 26036).

Based on new information from the company, a few additional workers were retained for close-down operations beyond the January 1, 1990, termination date. Therefore, the certification is amended by deleting the previous termination date and inserting a new termination date of June 1, 1990. The amended notice applicable to TA–W–24,298 is hereby issued as follows:

All workers of Lennon Wallpaper Company, Shorewood, Illinois, who became totally or partially separated from employment on or after March 31, 1989, and before June 1, 1990, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 3d day of August 1990.

Barbara Ann Farmer,

Director, Office of Program Management, UIS.

[FR Doc. 90–19087 Filed 8–13–90; 8:45 am]

BILLING CODE 4510–30–M

Mine Safety and Health Administration

[Docket No. M–90–114–C]

Pinckneyville Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Pinckneyville Mining Company, P.O. Box 286, Pinckneyville, Illinois 62274–0286, has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its No. 1 Mine (I.D. No. 11–02886) located in Perry County, Illinois. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that intake and return aircourses be separate from belt haulage entries and that belt haulage entries not be used to ventilate active working places.

2. As an alternative method, the petitioner proposes to use belt air to ventilate active working places.

3. In support of this request, the petitioner proposes to install an early warning fire detection system utilizing a low-level carbon monoxide detection system in all belt entries used as intake aircourses and to monitor the air at each belt drive and tailpiece. The warning time provided by the system would be maximized. The CO monitoring system would initiate the fire alarm signals at a surface location where a responsible person, having two-way communications with all working sections, would be located. This person would notify the working sections and other personnel who may be endangered when the permanently established alert and alarm levels are reached. The CO system would be capable of identifying any activated sensor.

4. The CO system would be visually examined at least once each shift and tested weekly to ensure the monitoring system is functioning properly. The monitoring system would be calibrated with known concentrations of CO and air mixtures at least monthly. A record of all inspections would be maintained on the surface. The inspection record would show the time and date of each weekly inspection and monthly calibration.

5. If the CO monitoring system is deenergized, the belt conveyor would be allowed to continue operation and qualified persons would patrol and monitor the belt conveyor using handheld CO detecting devices. A CO detection device would also be available for use on each working section in the event the monitoring system is deenergized or fails.

6. Petitioner states that the proposed alternate method will not result in a diminution of safety to the miners affected.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 13, 1990. Copies of the petition are available for inspection at that address.

Dated: August 7, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90–19089 Filed 8–13–90; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–90–115–C]

Pinckneyville Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Pinckneyville Mining Company, P.O. Box 286, Pinckneyville, Illinois 62274–0286 has filed a petition to modify the application of 30 CFR 75.1002 (location of trolley wires, trolley feeder wires, high-voltage cables and transformers) to its No. 1 Mine (I.D. No. 11–02886) located in Perry County, Illinois. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that trolley wires and trolley feeder wires, high-voltage cables, and transformers be kept at least 150 feet from pillar workings and not be located inby the last open crosscut.

2. As an alternate method, the petitioner proposes to use high-voltage cables (2400 volt) to power longwall mining equipment inby the last open crosscut and within 150 feet of pillar workings. The petitioner outlines specific equipment and procedures in the petition.

3. In support of this request, the petitioner states that the cables to be used would have a grounded metallic shield around each conductor, be at least 5000 V, and have an MSHA approved outer jacket.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 13, 1990. Copies of the petition are available for inspection at that address.

Dated: August 6, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90–19090 Filed 8–13–90; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–90–111–C]

Wampler Brothers Coal Co. Inc.; Petition for Modification of Application of Mandatory Safety Standard

Wampler Brothers Coal Company, Inc., Rt. 3, Box 670, Lebanon, Virginia 24266 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Mine No. 1 (I.D. No. 15–11027) located in Letcher County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that the return aircourse be examined in its entirety on a weekly basis.

2. Due to adverse roof conditions, the return aircourse cannot be safely traveled and to require an examiner to perform weekly examinations would result in a diminution of safety.

3. As an alternative method, petitioner proposes to establish evaluation points at specific locations where the potential for hazards would be monitored two times weekly.

4. Petitioner states that the proposed alternative method will provide the same degree of safety for the miners affected as that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 13, 1990. Copies of the petition are available for inspection at that address.

Dated: August 6, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90–19091 Filed 8–13–90; 8:45 am]

BILLING CODE 4510–43–M

Pension and Welfare Benefits Administration

[Application No. D–8270 et al.]

Proposed Exemptions; Sedco Forex Resources, 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.

Sedco Forex Resources, Inc., Profit Sharing Plan (the Plan) Located in New York, NY

[Application No. D–8270]

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) shall not apply to the proposed cash sale by the Plan of three promissory notes (the Notes) to Schlumberger Technology Corporation (STC), a party in interest with respect to the Plan, for the greater of $7,072,719 or the fair market value of the Notes on the date of the sale.

Summary of Facts and Representations

1. Schlumberger Limited (Schlumberger) of 277 Park Avenue, New York, New York, is a publicly-traded multinational conglomerate that is incorporated in the Netherlands Antilles and does business in over 90 countries. Through three distinct business lines, Schlumberger is involved

in virtually every type of service needed by oil companies such as seismic surveys, drilling, evaluating wells and testing. In this connection, Schlumberger has pioneered a process known as "wireline logging" which operates similar to an X-ray in determining where oil and gas lie in a well. In addition, Schlumberger is a major manufacturer of electricity, water and gas meters. Further, Schlumberger manufactures and develops electronic and nuclear equipment, produces high performance valves and operates facilities specializing in metal and plastic fabrication. Through another affiliate, Schlumberger provides the electronics, automobile, aviation and other industries with computer-aided design and manufacturing equipment.

2. STC, a wholly owned subsidiary of Schlumberger, is a Texas corporation engaged primarily in the provision of wireline logging and related services to operators of oil and gas wells throughout the western continental United States, Alaska and the United States offshore areas. STC maintains its principal place of business in Houston, Texas.

3. Sedco Forex Resources, Inc. (Sedco Forex), which is headquartered in Dallas, Texas, is engaged in the business of offshore and land drilling for major oil companies that are unrelated to Schlumberger. Sedco Forex is a Delaware corporation and a wholly owned subsidiary of STC.

4. The Plan is a defined contribution plan covering employees of Sedco Forex, STC and a former affiliate. As of September 30, 1989, the Plan had 808 participants and total assets of $30,105,951. The assets of the Plan are held in the Schlumberger Master Profit Sharing Trust (the Master Trust) which serves as the investing medium for the Plan and certain other defined contribution plans that are sponsored by Schlumberger and its affiliated companies. The Plan has an allocable, undivided interest in the net assets of the Master Trust. In addition, the Plan is the only plan participating in the Master Trust that is involved in a land fund (the Land Fund). The Land Fund was established in the Master Trust to account for the sale of certain real property and related Notes that are described herein. As of September 30, 1989, the Master Trust had total assets of $425,858,738. As of September 30, 1989, there were approximately 587 participants in the Land Fund.

Since January 1, 1990, Northern Trust Company (Northern) of Chicago, Illinois has been the trustee of the Master Trust, having replaced Texas Commerce Bank (TCB) of Houston, Texas in this capacity. Also since January 1, 1990, TCB has been serving as the Ancillary Trustee of the Master Trust with respect to the subject Notes.[1] Investment decisions for the Master Trust are made by the Northern or by various independent investment managers appointed by the Schlumberger Finance Committee.

5. The assets of the Plan formerly included certain unimproved real property (the South Tract and the North Tract) located in Rockwall County, Texas. (The South Tract and the North Tract are collectively referred to as the Property.) The South Tract, which contained approximately 483 acres of land, was located on the southwest side of FM–3097,[2] north of FM–549 in the City of Heath, Rockwall County, Texas. Also comprising the total acreage attributed to the South Tract were 62 lots within the Buffalo Creek Estates Subdivision (the Buffalo Creek Development), a proposed 500 plus acre residential golf community which were located on the east side of FM–740. The North Tract, which was located on the southwest side of FM–3097, south of FM–740 in the City of Rockwall, Rockwall County, Texas, consisted of approximately 116 acres of land.

The Plan purchased the Property on November 14, 1983 from an unrelated party, Axia Incorporated (Axia) of Oak Brook, Illinois. The Plan paid Axia a total cash purchase price of approximately $4,903,532 in order to acquire both the South Tract and the North Tract. According to the applicant, during the period the Property was owned by the Plan, it was held exclusively for investment purposes and it was never used by or leased to parties in interest.

6. During 1986, the Plan sold the Property to an unrelated real estate developer, Whittle Development, Inc. (WDI) of Rockwall County, Texas for a total sales price of $11,560,400. Of the total sales price, approximately $4,900,000 represented the cash downpayment and the balance was represented by two promissory notes which had been executed between the Plan and WDI. The sale was consummated in separate real estate transactions that are described below.

7. On March 31, 1986, the Plan sold the South Tract to WDI for $5,124,657. Of this amount, WDI paid the Plan $1,900,000 in cash and it executed a promissory note in the original principal amount of $3,224,657 (the $3.2 Million Note). The $3.2 Million Note carried an interest rate equal to the greater of 12 percent per annum or 2.5 percent over TCB's prime rate and it required annual payments of accrued interest. The $3.2 Million Note initially had a maturity date of March 31, 1988, at which time the entire unpaid principal balance and accrued interest was due and payable. The term of the Note was later modified by the parties and the Note was made due and payable on August 26, 1987 instead of March 31, 1988 as originally intended.

The $3.2 Million Note was secured by: (a) a Deed of Trust in which the Plan was given a first lien interest in most of the South Tract; (b) a Vendor's Lien that was retained by the Plan in the General Warranty Deed until the $3.2 Million Note and interest could be repaid; and (c) an Unconditional Guaranty executed by Mr. Robert S. Whittle (Mr. Whittle), a principal shareholder of WDI and an unrelated party.

The Deed of Trust and the Vendor's Lien were subordinated in favor of two liens on a portion of the South Tract that secured certain development loans. One of the loans, in the amount of $809,000, was provided by Kingfisher Savings and Loan Association (Kingfisher) of Kingfisher, Oklahoma. The other development loan, in the original principal amount of $2 million, was provided by Valley Federal Savings and Loan Association (Valley) of Roswell, New Mexico. Both Kingfisher and Valley are unrelated parties.

8. On August 26, 1986, the Plan sold the North Tract to WDI for a total sales price of $6,435,769. WDI made a $3 million cash downpayment and executed a promissory note in the original principal amount of $3,435,769 with the Plan (the $3.4 Million Note). The $3.4 Million Note carried an interest rate equal to the greater of 12 percent per annum or 2.5 percent in excess of TCB's prime interest rate. The Note had a maturity date of August 26, 1987, at which time the entire unpaid principal balance of the Note and accrued unpaid interest would become due and payable.

The $3.4 Million Note was secured by: (a) a Deed of Trust on the North Tract in which the Plan had first lien interests in the Property; (b) a Vendor's Lien

[1] The applicant represents that InterFirst Bank Dallas, N.A. (InterFirst) of Dallas, Texas, which is no longer in existence, served as an Ancillary Trustee for the Plan with respect to the acquisition of the real property and Notes that are described in this notice of proposed exemption. The applicant also represents that on December 30, 1986, InterFirst transferred and assigned its rights under the Notes to TCB. Since that time, the applicant states that TCB has been responsible for all decisions affecting the Notes, including their restructuring.

[2] The applicant states that the designation "FM", as used in the legal descriptions of the Property, means "farm to market". The applicant represents that the term is used to describe rural highways in the State of Texas that are adjacent to the Property.

retained by the Plan in the General Warranty Deed; and (c) an Unconditional Guaranty executed by Mr. Whittle and Dr. Paul E. Liechty (Dr. Liechty), an unrelated party.

9. On August 26, 1987, the entire unpaid principal balance of both the $3.2 Million Note and the $3.4 Million Note, together with accrued unpaid interest became due and payable. However, because of WDI's insolvency, these obligations were not paid and the Notes went into default. Consequently, TCB, as trustee of the Plan, agreed to restructure the terms of the Notes as follows:

a. The maturity date of the $3.2 Million Note was extended until August 26, 1991. The interest rate on such Note remained at 12 percent or 2.5 percent over TCB's prime, whichever was the greater. Unpaid interest in the amount of $386,958 that was payable on March 30, 1988 was secured by an irrevocable letter of credit (the Letter of Credit) from Kingfisher.[3] Subsequent installments of interest were payable semiannually on September 30 and on March 30 until maturity. Finally, in an effort to induce Hiawatha Savings and Loan Association of Fairway, Kansas, an unrelated party, to lend WDI $1 million so that WDI could complete part of the Buffalo Creek Development, TCB further subordinated the Plan's Vendor's Lien and Deed of Trust on the 62 lots that comprised a portion of the South Tract.

b. The maturity date of the $3.4 Million Note was similarly extended until August 26, 1991. Accrued and unpaid interest on this Note in the amount of $412,292 was deferred and separated into a new promissory note (the Accrued Interest Note), also having a maturity date of August 26, 1991. The interest rate on both the $3.4 Million Note and the Accrued Interest Note was set at 9 percent per annum with semiannual interest payments due on September 30 and March 30. However, for the Accrued Interest Note, interest payments could be deferred and added to the principal balance of such Note on specified payment dates. The Accrued Interest Note was secured by a Supplement to the Deed of Trust on the North Tract and by an Unconditional Guaranty executed by Mr. Whittle and Dr. Liechty.

10. The interest payment for the $3.2 Million Note that was due on March 30, 1988 was never paid by WDI. However, TCB, as trustee of the Plan, was able to collect the amount due by drawing on the Letter of Credit. WDI also failed to make semiannual interest payments of $193,479 under the $3.2 Million Note which were due on September 30, 1988, March 30, 1989 and September 30, 1989. Thus, the Note went into default.

Defaults also occurred under both the $3.4 Million Note and the Accrued Interest Note. WDI again failed to pay semiannual installments of interest that were due on March 30, 1989 and September 30, 1989 in the amount of $168,837 and $176,435 for the $3.4 Million Note and $20,260 and $21,172 for the Accrued Interest Note.

11. In a letter dated November 29, 1988 from WDI to the Plan, two alternative methods were proposed for restructuring WDI's indebtedness. By letter dated December 5, 1988, Hiawatha confirmed its intent to provide certain funds necessary for completion of part of the Buffalo Creek Development. TCB issued a letter to WDI as evidence of its limited acceptance of the proposed restructuring subject to certain requirements and conditions, among which included a voluntary reconveyance of the North Tract and the purchase, at a discount, of the $3.2 Million Note. Because the restructuring was not timely completed and because its completion did not appear imminent, TCB sent notices to WDI of the defaults and indicated that it would accelerate the maturity of the Notes and the indebtedness evidenced thereby. TCB also explained that it would commence foreclosure proceedings upon all of the Property securing the Notes unless all past due payments were received by TCB, on behalf of the Plan, on or before November 9, 1989. On November 7, 1989, WDI filed a voluntary petition for reorganization under chapter 11 of the United States Bankruptcy Code. This action effectively stayed foreclosure proceedings.

12. As Ancillary Trustee for the Plan, TCB requests an administrative exemption from the Department in order to sell the Notes to STC.[4] TCB believes that the proposed sale of the Notes is prudent and is in the best interest of the Plan's participants and beneficiaries because it will allow the Plan to dispose of assets which would be difficult to sell to an unrelated party. In addition, TCB believes the proposed sale will allow the Plan to receive cash that can be reinvested in other income-producing assets. Thus, TCB will sell the Notes to STC for a cash amount equal to the greater of $7,072,719, the aggregate principal balance of the Notes, or their appraised fair market value on the date of the sale.[5] The Plan will not be required to pay any commissions or other costs in connection with the proposed sale.

13. E.E. Gatewood, III (Mr. Gatewood), Staff Appraiser and Karel J. Clettenberg PhD., S.R.P.A. (Dr. Clettenberg), independent appraisers affiliated with the real estate appraisal firm of Crosson, Dannis, Inc. of Dallas, Texas, valued the Property underlying the Notes. In appraisal reports dated January 31, 1990, Mr. Gatewood and Dr. Clettenberg placed the fair market value of the South Tract which underlies the $3.2 Million Note at $3,280,000 and the fair market value of the North Tract which underlies both the $3.4 Million Note and the Accrued Interest Note at $1,500,000, or an aggregate fair market value of $4,780,000 as of January 29, 1990.

14. Heritage Trust Company (Heritage) of Houston, Texas, an independent appraiser, has valued the Notes. In particular, Heritage has engaged the services of Thomas B. McDade (Mr. McDade), an independent financial consultant to appraise the Notes. Heritage states that it has reviewed Mr. McDade's letter of February 9, 1990 and related documentation and it represents that it has worked very closely with Mr. McDade in obtaining and analyzing the information contained therein. Additionally, Heritage represents that it has reviewed the independent appraisals of the Property that were prepared by Mr. Gatewood and Dr. Clettenberg and it states that it has studied these appraisals and it concurs with the underlying assumptions and conclusions reached.

Heritage represents that it concurs with Mr. McDade's appraisal of the Notes and it states that Mr. McDade considered the following factors in their valuation: (a) The source of repayment; (b) the interest rate; (c) the creditworthiness of WDI, Mr. Whittle and Dr. Liechty; and (d) the Property pledged as collateral. Heritage states that as of January 29, 1990, Mr. McDade valued the $3.2 Million Note at $1,650,000 and the $3.4 Million Note at $1,175,000. Heritage also states that Mr. McDade did not separately value the

[3] The Kingfisher Letter of Credit, which was dated March 31, 1986, was issued by Kingfisher to the Plan for the purpose of insuring the payment to the Plan of interest accruing from March 31, 1987 until March 31, 1988 on the $3.2 Million Note. The Letter of Credit was in the amount of $385,315.

[4] In this proposed exemption, the Department is not providing exemptive relief beyond that given for the sale of the Notes by the Plan to STC. The Department also expresses no opinion herein on whether TCB's decisions and actions regarding the restructuring of the Notes were inconsistent with the fiduciary responsibility provisions of section 404 of the Act.

[5] The applicant represents that all servicing costs associated with the Notes have been paid by either Sedco Forex, STC or Schlumberger.

Accrued Interest Note, but rather, he included its value in the valuation of the $3.4 Million Note. Thus, according to Mr. McDade (and as confirmed by Heritage), the aggregate fair market value of the Notes was $2,825,000 as of January 29, 1990.

In a June 6, 1990 addendum to his appraisal report, Mr. McDade explains why he has valued the Notes at a lower fair market value than the Property. Under ideal circumstances, Mr. McDade states that the Notes and the Property would have the same value. However, under the circumstances existing at the time of his appraisal, he explains that the Notes would be worth considerably less due to: (a) The existence of a prior lien on the Property totaling $845,968 and delinquent taxes totaling $161,454; (b) high real estate commissions that might be attributed to the Property if it were sold; (c) the potential existence of an outstanding liability for deferred real estate commissions; (d) the fact that sales of comparable properties had not taken place for many years; and (e) the effect of WDI's financial condition on a sale of the Property. Mr McDade also notes that because much of the Property will require substantial additional investment for development, it is possible that time delays in locating buyers will result and that self-financing at a discount to market terms will be required.

15. In summary, it is represented that the proposed transaction will satisfy the statutory criteria for an exemption under section 408(a) of the Act because: (a) The sale will be a one-time transaction for cash; (b) the Plan will sell the Notes to STC for the greater of the outstanding principal balance of the Notes or the fair market value at the time of the sale; (c) the Notes and the Property underlying such Notes have been appraised by qualified independent appraisers; (d) the Plan will not be required to pay any fees or commissions in connection therewith; and (e) the Plan will be able to dispose of assets which would be difficult to sell to an unrelated party.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

StarMark, Inc. Profit Sharing Plan and Trust (the Plan) Located in Sioux Falls, South Dakota

[Application No. D-8352]

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 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), 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 sections 4975(c)(1) (A) through (E) of the Code, shall not apply to: (1) The purchase by the Plan of certain leases of equipment (the Leases) from StarMark, Inc. (the Employer); (2) the agreement by the Employer to indemnify the Plan against any loss relating to the Leases and also to repurchase any Leases that are in default in accordance with paragraph (C) below; and (3) the repurchase by the Employer of the equipment subject to a Lease at the termination of such Lease pursuant to the purchase price option contained in the Lease; provided that the following conditions are met:

A. Any sale of Leases to the Plan will be on terms at least as favorable to the Plan as an arm's-length transaction with an unrelated third party.

B. The acquisition of a Lease from the Employer shall not cause the Plan to hold immediately following the acquisition: (i) More than 25 percent of the current value of Plan assets in Leases sold by the Employer; (ii) more than 3% of Plan assets in a single Lease; or (iii) more than 5 percent of Plan assets in Leases of any one lessee.

C. Upon default by a lessee on any payment due under a Lease, the Employer agrees to indemnify the Plan against any loss resulting from such default and also agrees to repurchase such Lease at full face value, without discount, and to repurchase the equipment underlying the Lease at the present value of that equipment based on its value at the end of the Lease. A Lease shall be deemed to be in default for purposes of this section if: (1) A payment due under the terms and conditions of the Lease is past due for a period of 45 days; (2) a lessee defaults in the performance of any other term or condition of the Lease for a period of 45 days; or (3) in the event the lessee shall become insolvent, commit an act of bankruptcy, make an assignment for the benefit of creditors or a liquidating agent, offer a composition or extension to creditors, make a bulk sale; or in the event any proceeding, suit or action at law, in equity or under any of the provisions of the Bankruptcy Act or of amendments thereto for reorganization, composition, extension, arrangements, receivership, liquidation, or dissolution shall be begun by or against the lessee; or in the event of the appointment under any jurisdiction at law or in equity of any receiver of the lessee; or in the event the condition of affairs of the lessee shall so change as to, in the opinion of the Trustee or other appropriate Plan fiduciaries, impair its security or increase its credit risks.

D. The Plan receives adequate security for the property underlying the Lease. For purposes of this exemption, the term adequate security means that the property is secured by a perfected security interest in the property leased so that, if there is a default on the Lease, and the security is foreclosed upon, or otherwise disposed of, the value and liquidity of the security is such that it may reasonably be anticipated that the Plan will experience no loss.

E. Insurance against loss or damage to the leased property from fire or other hazards will be procured and maintained by the lessee and the proceeds from such insurance will be assigned to the Plan.

F. The Plan shall maintain for the duration of any Lease which is sold to the Plan pursuant to this exemption, records necessary to determine whether the conditions of this exemption have been met. The records referred to above must be unconditionally available at their customary location for examination, for purposes reasonably related to protecting rights under the Plan, during normal business hours by the Internal Revenue Service, the Department of Labor, Plan participants, any employee organization any of whose members are covered by the Plan, or any duly authorized employee or representative of the above described persons.

Temporary Nature of Exemption: This proposed exemption will not apply to any purchase of Leases by the Plan which occurs after five years from the date on which the Final Grant of this proposed exemption is published in the Federal Register.

Summary of Facts and Representations

1. The Plan is a profit sharing plan which, as of June 30, 1989, had approximately 200 participants and total assets of $1,386,693. The trustee of the Plan, and the decision-maker with respect to the Plan's investments, is First Bank of South Dakota (the Bank).

2. The Employer is a South Dakota corporation engaged in the business of manufacturing and distributing all types of cabinetry. The Employer's cabinets are distributed through third party dealers who display them on their premises. As an incentive to dealers to take on the Employer's lines, the Employer leases cabinet displays to the dealers. The Leases that the Plan proposes to purchase from the Employer will involve Employer cabinets which

are leased to these third party dealers. None of these dealers will be parties in interest with respect to the Plan.

3. On February 5, 1985, the Department granted Prohibited Transaction Exemption (PTE) 85–27 (50 FR 5018) which allowed the Plan to purchase the Leases from the Employer for a period of five years. As of January 31, 1990, the total amount of the Plan's assets invested in Leases was approximately $65,000. The Plan has not acquired any more Leases from the Employer since February 5, 1990. The applicant states that all of the subject transactions have been, and continue to be, maintained in accordance with the provisions of PTE 85–27. The applicant seeks an additional five year exemption for the Plan to purchase Leases from the Employer.

4. The Plan proposes to invest no more than 25 percent of the current value of its assets in the Leases. In addition, the Plan will invest no more than 3 percent of its assets in a single Lease or 5 percent of its assets in Leases of any one lessee. The Leases will vary in length from 12 to 36 months, depending on the cost of the cabinetry, and will be sold to the Plan for cash. The Leases will be completely net to the Plan. The applicant states that the Leases currently held by the Plan have been yielding a return of 18% per annum.

5. The purchase price of a Lease will be based upon the invoice price of the cabinetry being leased, less an appropriate discount as determined by the Bank as the independent fiduciary of the Plan (see below). No commissions will be paid by the Plan to anyone as a result of the sales of the Leases to the Plan. The rental for the Leases purchased by the Plan will be comparable to what the Plan could obtain in a direct transaction with an unrelated third party and will be calculated by the same method used to calculate the rental for the Employer's leases. Title to the cabinetry will be passed to the Plan upon the purchase of any Lease.

6. Notwithstanding the fact that upon purchase of a Lease the Plan also acquires and holds title to the equipment (i.e. the cabinetry) underlying the Lease, as a further protection to the Plan such equipment will be secured by a perfected security interest which will name the Plan as the secured party. If the security is foreclosed upon in the event of default, the value and liquidity of the security will be such that it may reasonably be anticipated that a loss to the Plan will not result. The lessee is also required to maintain insurance on the cabinets to protect against any loss from fire and other hazards, and the proceeds of such insurance, in the event of any loss, will be assigned to the Plan.

7. The Plan will assume the position of lessor, with the attendant rights and obligations, under the terms of the Leases. However, the Employer will be liable under the warranty clauses of the Leases, and all warranty work will be performed by the Employer at no charge to the Plan. Furthermore, if a default occurs, the Plan will have full recourse against the Employer. The Employer has agreed to repurchase any Lease in default at its full face value, without any discount, and to repurchase the cabinets underlying the Lease at the expiration of the Lease for the present value of the cabinet's residual value, as determined by the Bank as the independent fiduciary of the Plan (see below). The Employer has also agreed to indemnify the Plan for any losses suffered as a result of a default. Leases shall be deemed to be in default if the lessee fails to make a rental payment within 45 days after it is due; if a lessee defaults in the performance of any other term or condition of the Lease for a period of 45 days; or in the event the lessee shall become insolvent, commit an act of bankruptcy, make an assignment for the benefit of creditors or a liquidating agent, offer a composition or extension to creditors, make a bulk sale; or in the event any proceeding, suit or action at law, in equity or under any of the provisions of the Bankruptcy Act or of amendments thereto for reorganization, composition, extension, arrangements, receivership, liquidation, or dissolution shall be begun by or against the lessee; or in the event of the appointment under any jurisdiction at law or in equity of any receiver of the lessee; or in the event the condition of affairs of the lessee shall so change as to, in the opinion of the Trustee or other appropriate Plan fiduciaries, impair its security or increase its credit risks. The Employer's net worth was approximately $23,960,000, as of December 31, 1989. The Employer is a wholly-owned subsidiary of the Masco Corporation.

8. The Bank represents that it will continue to act as the independent fiduciary for the Plan with respect to the proposed purchases of the Leases. As of December 31, 1989, the sole relationship between the Bank and the Employer, its officers and its shareholders, was that the Employer had deposits of approximately $300,000 with the Bank, which represented less than .06% of the Bank's total deposits.

9. The Bank represents that it has determined and, if the proposed exemption is granted, will continue to determine whether the Plan should purchase any of the Leases. The Bank evaluates the Leases by taking into consideration the appropriate rate of return to the Plan based upon other comparable equipment leases available to the Plan. Such consideration includes the safety of the investment, the period required to amortize the investment, and the returns being realized by the Bank on commercial installment loans. The rate of return that the Bank intends to realize for the Plan is determined, in part, by the amount of discount the Bank requires from the invoice price of the cabinets being leased. The Bank states that its decision-making process with respect to the Leases is ongoing in order to ensure that the Plan maintains actuarially sound liquidity in its overall investment portfolio as well as sufficient diversification in its noncash investments. When the Plan acquires any of the Leases, the Bank represents that (i) no more than 25% of the Plan's assets is invested in the Leases at any given time, (ii) no more than 3% of the Plan's assets is invested in a single Lease, and (iii) no more than 5% of the Plan's assets is invested in Leases of any one lessee.

The Bank states that the purchase of the Leases is beneficial to the Plan for the following reasons: (a) The Leases are adequately secured by a perfected security interest in the equipment (i.e. the cabinetry) and are guaranteed by the lessee and the Employer; (b) the Leases are of short duration—1, 2 or 3 years; (c) the Leases are fully amortized (exccpt for a minimal buyout) and there is no substantial balloon payment; (d) the Bank can determine an appropriate discount from the invoice price of the cabinetry to generate a substantial return to the Plan; and (e) the Lease amounts are relatively small ranging from a total of $1,000 to $6,000 each and the lessees are located over a wide geographic area, adding to the diversificatcn aspect of the investments. The Bank states that the rate of return on the Leases is at least comparable to, and often better than, other equipment leases in the greater Sioux Falls area. In addition, the Leases have less investment risk than other equipment leases available to the Plan. The Bank notes that the Leases have had a very low rate of default and that as of April 1990, none of the Leases held by the Plan were in default.

The Bank represents that it will continue to monitor and enforce the Leases, including all agreements made by the Employer, on behalf of the Plan.

10. At the end of the initial term of a Lease, the lessee has three options, with the following consequences to the Plan:

(a) The lessee may renew the Lease with the Plan's rights and obligations remaining the same as during the initial term; (b) the lessee may purchase the cabinetry under a purchase option, in which case the Plan would receive the proceeds; or (c) the lessee may choose to not renew the Lease or purchase the cabinetry, in which case the Employer will purchase the cabinetry from the Plan at the higher of the buyout price set in the Lease or the fair market value of the cabinets at the date of the expiration of the Lease, as determined by the Bank.

11. In summary, the applicant represents that the proposed transactions will meet the statutory requirements of section 408(a) of the Act and section 4975(c)(2) of the Code because: (a) The Bank, acting as an independent fiduciary on behalf of the Plan, will have the sole authority to select, purchase and monitor the Leases and also to monitor the Employer's indemnification and repurchase agreements; (b) the sales of the Leases to the Plan will be limited to a five year period and no more than 25% of the Plan's assets will be invested in the Leases; (c) the Plan will have a perfected security interest in each cabinet subject to a Lease; and (d) the Employer will indemnify the Plan for any loss suffered by the Plan as a result of a Lease default and repurchase both the Lease and the cabinets underlying the Lease.

FOR FURTHER INFORMATION CONTACT: Mr. E.F. Williams of the Department, telephone (202) 523-8883. (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 or 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;

(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 administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(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 8th day of August 1990.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 90-19003 Filed 8-13-90; 8:45 am]

BILLING CODE 4510-29-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-461]

Illinois Power 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 the Illinois Power Company (IP) and Soyland Power Cooperative, Inc. (the licensees), for operation of Clinton Power Station, Unit 1, located in DeWitt County, Illinois.

Environmental Assessment

Identification of Proposed Action

The licensees have requested a license amendment that would revise the Technical Specifications (TS) to remove the requirement for isolation of the Containment Monitoring (CM) and Process Sampling Systems (PS) upon a Containment Building Exhaust High Radiation signal. This proposed change would remove the isolation requirement for the CM and PS systems upon a Containment Exhaust Duct High Rad signal from section 3/4.3.2, the Containment and Reactor Vessel Isolation Control System. The change would also revise the list of containment isolation valves in section 3.6.4 to delete the Containment Exhaust Duct High Rad trip from the list of isolation signals for the affected CM and PS valves.

This revision to the Clinton Power Station TS would be made in response to the licensee's application for amendment dated February 5, 1988.

The Need for the Proposed Action

IP, et al., have proposed an amendment to Facility Operating License No. NPF-62, which consists of changes to the TS. The current TS require that the CM and PS systems automatically isolate from a Containment Building Exhaust High Radiation signal. However, the CM and PS systems are designed to be operable at post-accident radiation levels. The CM and PS systems are closed loops and have small diameter containment penetrations. Therefore, in order to increase the system operational flexibility the licensee proposes to delete the isolation requirement.

Environmental Impacts of the Proposed Action

The proposed changes would delete an isolation that is not a requirement for high containment radiation conditions. The CM and PS systems would continue to be isolated on a Loss of Coolant Accident (LOCA) signal. The LOCA isolation function would not be affected by this proposed change. No changes to plant design are proposed.

The Commission has concluded that these changes do not significantly increase the probability or consequences of any accident and that potential radiological releases during normal operations or transients would not be increased. With regard to nonradiological impacts, the proposed amendment involves systems located within the restricted area as defined in 10 CFR part 20. They do not affect nonradiological plant effluents and have no other environmental impact. Therefore, the staff also concludes that there are no significant nonradiological environmental impacts associated with the proposed amendment.

Accordingly, the Commission findings in the "Final Environmental Statement related to the operation of Clinton Power Station, Unit No. 1," dated May 1982, regarding radiological environmental impacts from the plant during normal operation or after accident conditions are not adversely

altered by this action. IP is committed to operate Clinton, Unit 1, in accordance with standards and regulations to maintain occupational exposure levels "as low as reasonably achievable."

The Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on June 14, 1988 (53 FR 22246). No request for hearing or petition for leave to intervene was filed following this notice.

Alternative to the Proposed Action

The principal alternative would be to deny the requested amendment. This alternative, in effect, would be the same as a "no action" alternative. Since the Commission has 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.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Clinton Station, Unit 1, dated May 1982.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request of February 5, 1988 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 licensee 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 request for amendment dated February 5, 1988 and the Final Environmental Statement for the Clinton Power Station dated May 1982, which are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC and at the Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

Dated at Rockville, Maryland, this 6th day of August 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. 90-19063 Filed 8-13-90; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards

Subcommittee on Materials and Metallurgy; Meeting

The Subcommittee on Materials and Metallurgy will hold a meeting on September 5, 1990, Room P-110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, September 5, 1990—8:30 a.m. until the conclusion of business

The Subcommittee will review Yankee Rowe Reactor Pressure Vessel Embrittlement issues.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Elpidio G. Igne, (telephone 301/492-8192) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: August 8, 1990.

Gary R. Quittschreiber,

Chief, Nuclear Reactors Branch.

[FR Doc. 90-19064 Filed 8-13-90; 8:45 am]

BILLING CODE 7590-01-M

Availability of Draft Technical Position on Regulatory Considerations in the Design and Construction of the Exploratory Shaft Facility

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

SUMMARY: The Nuclear Regulatory Commission (NRC) is announcing the availability of the "Draft Technical Position on Regulatory Considerations in the Design and Construction of the Exploratory Shaft Facility."

DATES: The comment period expires October 15, 1990.

ADDRESSES: Send comments to Chief, Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of this document may be obtained free of charge upon written request to Wendy D'Souza, Repository Licensing and Quality Assurance Project Directorate, Division of High-Level Waste Management, U.S. Nuclear Regulatory Commission, Mail Stop 4-H-3, Washington, DC 20555, Telephone 1/800/368-5642, Ext. 20440. Local callers should dial 301/492-0439.

FOR FURTHER INFORMATION CONTACT: Michael Lee, Project Manager, Repository Licensing and Quality Assurance Project Directorate, Division of High-Level Waste Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone 301/492-0421.

SUPPLEMENTARY INFORMATION: The NRC's Division of High-Level Waste Management is issuing this draft Technical Position to provide regulatory guidance to the U.S. Department of Energy (DOE) on an approach acceptable to the NRC staff for consideration of requirements in 10 CFR part 60 related to the exploratory shaft facility (ESF) for a potential high-level radioactive waste repository. The Technical Position covers topics that include certain aspects of the design control process, coordination of ESF design with design of the geologic repository operations area (GROA), consideration of alternatives, excavation methods, test interference, and site characterization. The positions and discussion in this Technical Position are based on the premise that the ESF will eventually become a part of a future GROA. Therefore, all 10 CFR part 60 requirements applicable to the GROA design are considered applicable to the ESF design. This Technical Position also

gives the specific guidelines by which the NRC can assess DOE's work on the ESF design and documents related thereto.

Dated at Rockville, Maryland, this 6th day of July 1990.

For the Nuclear Regulatory Commission.

Robert E. Browning,

Director, Division of High-Level Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 90-19065 Filed 8-13-90; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Request for Approval of Client Satisfaction Survey Submitted to OMB for Clearance

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S.C. chapter 35) this notice announces an information collection, "Office of Personnel Management Client Satisfactory Survey." The purpose of this survey questionnaire is to determine how well the Office of Personnel Management has served federal civil service annuitants.

The total number of annuitants sampled annually will be approximately 6,000, for a total annual public burden of approximately 1,800 hours. For copies of this proposal, call C. Ronald Trueworthy on (202) 606-2261.

DATES: Comments on this proposal should be received within 30 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to—

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., room 3235, Washington, DC 20503

and

Mary Beth Smith-Toomey, Office of Personnel Management, Retirement and Insurance Group, 1900 E Street NW., room SBH22, Washington, DC 20415

FOR FURTHER INFORMATION CONTACT: Mary Beth Smith-Toomey, (202) 606-0623.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 90-19032 Filed 8-9-90; 8:45 am]

BILLING CODE 6325-01-M

Request for Extensions of OPM 2809 and OPM 2809-EZ-1,2 Submitted To OMB for Clearance

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announced the reclearance of an information collection, OPM 2809—Health Benefits Registration Form, and OPM 2809-EZ-1,2—Health Benefits Enrollment Change Forms. OPM uses OPM Form 2809 and OPM Forms 2809-EZ-1,2 to specify the opportunities and conditions under which a retiree, survivor annuitant, or former spouse of a retiree is eligible to enroll or to change enrollment in the Federal Employee Health Benefits Program (FEHBP). Depending on the circumstances, one of three forms is completed by the person who is enrolling or changing enrollment in the program; these forms are all used to effect FEHBP enrollment or enrollment change.

Since these forms perform the same function and only differ in format, we have consolidated the burden hours. Approximately 285,000 forms are completed annually, each requiring approximately 30 minutes to complete for a total public burden of 142,750 hours.

For copies of this proposal, call C. Ronald Trueworthy on (202) 606-2261.

DATES: Comments on this proposal should be received within 30 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to—Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., Room 3235, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mary Beth Smith-Toomey, (202) 606-0623.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 90-19033 Filed 8-9-90; 8:45 am]

BILLING CODE 6325-01-M

POSTAL RATE COMMISSION

Visit to Postal Facility; Correction

August 8, 1990.

In FR Doc. 90-17868, appearing at page 31262 in the **Federal Register** of Wednesday, August 1, 1990, the following change should be made:

Beginning on fourth line, change visitation date to read "Wednesday, September 5, 1990" in lieu of "Thursday, September 6, 1990".

Charles L. Clapp,

Secretary.

[FR Doc. 90-19037 Filed 8-9-90; 8:45 am]

BILLING CODE 7710-FW-M

PRESIDENT'S EDUCATION POLICY ADVISORY COMMITTEE

Meeting

AGENCY: The President's Education Policy Advisory Committee.

ACTION: Sub-Group meeting.

SUMMARY: The President's Education Policy Advisory Committee, was formed under Executive Order 12687 and signed by the President of the United States on August 15, 1989.

TENTATIVE AGENDA ITEMS: Members attending will consider issues related to measuring and monitoring the national education goals.

DATES: The meeting is tentatively scheduled for August 15, 1990, from 9 a.m.-1 p.m.

ADDRESSES: The meeting will be held at the Aluminum Company of America (ALCOA). The street address is 1615 M Street, NW.

FOR FURTHER INFORMATION CONTACT: Rae Nelson at the White House Office of Policy Development. The phone number is (202) 456-7777.

Dated: August 8, 1990.

Roger B. Porter,

Assistant to the President for Economic and Domestic Policy.

[FR Doc. 90-19256 Filed 8-10-90; 4:29 pm]

BILLING CODE 3127-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34-28317; SR-DGOC-90-04]

Self-Regulatory Organizations; The Delta Government Options Corp.; Order Approving a Proposed Rule Change Relating to Various Enhancements to Delta's System

I. Introduction

On May 18, 1990, the Delta Government Options Corporation ("Delta") filed a proposed rule change with the Securities and Exchange Commission ("Commission") pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").[1] The

[1] 15 U.S.C. 78s(b)(1) (1982).

Commission published notice and an order granting partial accelerated approval of the propsal in the **Federal Register** on May 30, 1990.[2] No comments were received. As discussed below, the Commission is approving the remainder of Delta's proposal.

II. Description

Delta's proposal revises Delta's procedures to: (i0 provide for voluntary withdrawal; (ii) provide a mechanism to net obligations in the event of a default or insolvency, (iii) provide for rapid distribution of reports through an electronic computer interface,[3] (iv) clarify that all time references in its rules refer to Eastern Standard Time, (v) avoid costly wiring of margin amounts under $5,000, (vi) assure participants of Delta's intention to handle settlements expeditiously, and (vii) redefine the term "business day" to those days on which government securities dealers are open in New York.

III. Delta's Rationale for the Proposal

Delta believes the proposal is consistent with the requirements of section 17A of the Act and the rules and regulations thereunder applicable to Delta because the various revisions contained therein will permit more efficient utilization of Delta's system.

IV. Discussion

The Commission believes that Delta's proposal is consistent with the Act and, in particular, with Section 17A of the Act. Section 17A provides that the rules of a clearing agency must promote the prompt and accurate clearance and settlement of securities transactions.[4] The Commission believes that Delta's proposal advances these goals.

The Commission believes that Delta's proposal enhances its ability to promote the prompt and accurate clearance and settlement of securities transactions by adding certainty to its operations. As the Committee's Division of Market Regulation has previously stated, certainty is one of the cornerstones of any clearance and settlement system.[5] The Commission believes that Delta's proposal adds certainty to its operations by removing some ambiguity from its current rules and procedures.

For example, by clarifying that its system will not be open for trading and other activities on days that government securities dealers in New York City are not open for business, Delta removes any possible concern that may arise about whether over-the-counter options trading would occur through its system on a day on which trading in the securities underlying such options would be dormant. Similarly, Delta's voluntary withdrawal procedure provides its participants with a means of terminating their participation in Delta's system as of a date certain without exposing Delta to the risk that such participants will leave Delta's system before all of their obligations to Delta are satisfied.[6] In the same vein, standardizing all time references to Eastern Standard Time and undertaking to deliver promptly all funds and securities received pursuant to settlement of exercised options contracts adds certainty to Delta's rules and clarifies the nature of Delta's obligation to its participants.

The Commission notes that in enacting section 17A, Congress found that inefficient procedures for clearance and settlement impose unnecessary costs on investors and that new communications techniques create the opportunity for safer and more efficient procedures for clearance and settlement.[7] The Commission believes that Delta's proposal to require participants to establish computer-to-computer communication facilities with Delta will increase the safety and efficiency of Delta's operations in a number of respects For example, such facilities may eliminate the costs and administrative burdens involved in sending an authorized representative to Delta's clearing bank to transmit and receive various reports and notices. In addition, such facilities will permit the rapid transmission of data between Delta and its participants. Finally, computer-to-computer communications may enhance the security of communications between Delta and its participants.[8]

Delta's proposal also enhances the efficiency of its margin collection and payment process. Currently, Delta pays and collects margin from its participants without regard to the dollar amount of such transfers.[9] While the Commission believes that this practice is prudential, the Commission also recognizes that the burdens and costs arising out of wiring *de minimis* amounts of margin between Delta and its participants may outweigh the gains resulting from paying and collecting such amounts on a regular basis. In addition, because the proposal is relatively small in relation to Delta's participants' average daily margin payment obligations, Delta's proposal would streamline its operations without significantly increasing its exposure in the event of member default.[10] Accordingly, the Commission believes that this aspect of Delta's proposal is consistent with section 17A.

Finally, as the Commission has previously noted, one of the benefits Delta provides to its participants is centralized default administration.[11] Under Delta's proposal, Delta and its participants will be permitted to offset their obligations to one another in the event of default by either of them. The Commission believes that this will enhance Delta's default administration process.

As an example, assume one of Delta's participants is simultaneously short 50 option contracts and long 25 option contracts in the same series of options.

---

[2] *See* Securities Exchange Act Release No. 28032 (May 22, 1990), 55 FR 21993.

[3] Delta's computer communications system utilizes a mainframe computer maintained by RMJ Options Trading Corporation ("RMJ") that feeds into a personal computer and backup personal computer maintained by Delta ("System PC") which, in turn, is connected to each of its participant's personal computers. Between 10 p.m. (Eastern Time) and 4 a.m. (Eastern Time), Delta's system PC dials up the confidential telephone numbers of its participants' personal computers over a dedicated line. Once the connection between Delta's System PC and its participants' personal computers is made, Delta feeds reports into and retrieves data from their personal computers. In addition, Delta also furnishes its participants with the software necessary to convert this data into hard copy reports. Telephone conversation between David Maloy, President, Delta, and Ross Pazzol, Attorney, Division of Market Regulation, Commission, on August 1, 1990.

[4] *See* U.S.C. 79a–1(b)(3)(F) (1982).

[5] *See* The October 1987 Market Break, A Report by the Division of Market Regulation of the U.S. Securities and Exchange Commission (February 1988) at 10–55, 56,

[6] Under Delta's proposal, a participant may withdraw by delivering written notice of such withdrawal to Delta, Delta's clearing bank and RMJ. Such withdrawal becomes effective when (i) all such participant's open transactions are closed out; and (ii) such participant has satisfied all of its obligations to Delta, Delta's clearing bank and RMJ. *See* Delta Proposed Rule 210(b).

[7] *See* 15 U.S.C. § 78q-1(a)(1) (B) and (C) (1982).

[8] The Commission notes that Delta's computer communications system is designed so that Delta's participants do not input data directly in Delta's System PC. Instead, they leave data in their personal computers for retrieval by Delta's System PC. This may decrease the potential for unauthorized access into Delta's computer system.

[9] See Delta Rules 602 and 606.

[10] Delta analyzed what effect, if any, its proposal would have had on the amount of margin Delta collected from its participants if it were in effect from January 1, 1990, to June 22, 1990. Specifically, Delta identified those days during this time period on which Delta or its participants would have been required to wire margin payments under $5,000 and analyzed the effect that non-payment of those amounts would have had on the overall amount of margin Delta collected on those days. Delta has informed the Commission that had this proposal been in effect during such time period, Delta would not have received amounts ranging from .0005% to .04% of the total amount of margin required to be paid by all participants on such days. *See* letter from David Maloy, President, Delta, to Jonathan Kallman, Assistant Director, Division of Market Regulation, Commission, dated June 26, 1990.

[11] *See* Securities Exchange Act Release No. 27611 (January 12, 1990), 55 FR 1890 at 1902.

If the participant defaults, Delta will liquidate the participant's positions and use the proceeds thereof to satisfy the default.[12] However, instead of liquidating the participant's option contracts on a gross basis, Delta's proposal would permit it to offset these positions to the maximum extent possible and then liquidate the resulting net short position. Accordingly, because Delta's proposal would streamline its default administration procedures, the Commission believes that it is consistent with section 17A.

V. Conclusion

For the reasons stated above, the Commission finds that Delta's proposal is consistent with section 17A of the Act.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[13] That Delta's proposed rule change (SR–DGOC–90–04) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90–19004 Filed 8–13–90; 8:45 am]

BILLING CODE 8010–01–M

[File No. 1–10029]

Issuer Delisting; Notice of Application To Withdraw from Listing; Medical Management of America, Inc., Common Stock, $.01 Par Value

August 8, 1990.

Medical Management of America, 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 ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The Executive Committee of the Board of Directors of the Company ("Committee") unanimously approved resolutions on June 14, 1990 to withdraw the Company's Common Stock from listing on the Amex and, instead, to list such Common Stock on the National Association of Securities Dealers Automated Quotations National Market System ("NASDAQ/NMS"). The Committee's decision to list the Common Stock of the Company solely on NASDAQ/NMS was based on its belief that listing the Common Stock on NASDAQ/NMS will be more beneficial to the Company's stockholders than the present listing on the Amex.

Any interested person may, on or before August 29, 1990, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fith 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. 90–19001 Filed 8–13–90; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–17655; 812–7441]

Vanguard Municipal Bond Fund, Inc., et al.; Notice of Application

August 7, 1990.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission")

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: Vanguard Municipal Bond Fund, Inc., Vanguard Bond Market Fund, Inc., Vanguard California Tax-Free Fund, Vanguard New Jersey Tax-Free Fund, Vanguard New York Tax-Free Fund, Vanguard Pennsylvania Tax-Free Fund (the "Funds"), other investment companies which are or may become members of the Vanguard Group of Investment Companies (as described below), Vanguard Money Market Reserves, Inc. (the "Money Market Fund"), and Vanguard Group, Inc. (together with the Funds and the Money Market Fund, the "Applicants").

RELEVANT 1940 ACT SECTIONS: Sections 6(c), 17(b), and 17(b) of the 1940 Act and Rule 17d–1 thereunder.

SUMMARY OF APPLICATION: Applicants seek an order under sections 6(c), 17(b) and 17(d) of the 1940 Act and Rule 17d–1 exempting them from the provisions of sections 17(a) (1) and (2) and 17(d).

FILING DATE: The application was filed on December 6, 1989, and amended on July 16, 1990, and August 2, 1990.

HEARING OR NOTIFICATION OF HEARING: A permanent order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on September 4, 1990, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of the date of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, Vanguard Financial Center, Valley Forge, Pennsylvania 19482.

FOR FURTHER INFORMATION CONTACT: Barbara Chretien-Dar, Staff Attorney, at (202) 272–3022, or Stephanie Monaco, Branch Chief, at (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee at the SEC's Public Reference Branch or by contacting the SEC's commercial copier at (800) 231–3282 (in Maryland (301) 258–4300).

Applicants' Representations

1. The Funds, each registered as an open-end investment company under the 1940 Act, are members of The Vanguard Group of Investment Companies (the "Vanguard Funds"), a gorup of 30 investment companies which jointly and wholly own The Vanguard Group, Inc. ("Vanguard"). Vanguard provides corporate management, administrative, transfer agency, and distribution services to the Vanguard Funds under an agreement with each fund on an at-cost basis. Vanguard also serves as investment adviser to ten Vanguard Funds, including the Funds and the Money Market Fund, on an at-cost basis.

2. The Vanguard Municipal Bond Fund, Inc. consists of seven different portfolios, including a money market portfolio (the "Municipal Bond Fund Money Market Fund") which invests in short-term, high quality debt obligations that are exempt from federal income taxes and are issued by local, state and regional governments. The Vanguard

---

[12] *See* Delta Rule 1205.

[13] 15 U.S.C. 78s(b)(2) (1982).

California, Pennsylvania and New Jersey Tax-Free Funds each offer a money market portfolio (the "State Tax-Free Money Market Portfolios," and together with the Municipal Bond Fund Money Market Fund, the "Money Market Portfolios") which primarily invest in short-term, high quality debt obligations that are exempt from both federal and applicable state income taxes and are issued by state or local governments and public financing authorities.

3. The Money Market Fund consists of the following three portfolios. The Prime Portfolio invests in high quality money market obligations issued by financial institutions, other corporations, and the United States Government, as well as in repurchase agreements collateralized by such instruments, and in dollar denominated short-term obligations of foreign banks and foreign branches of domestic banks. The Federal Portfolio invests in securities issued by the United States government and its agencies or instrumentalities, and repurchase agreements collateralized by such securities. The U.S. Treasury Portfolio invests in securities backed by the full faith and credit of the United States government and repurchase agreements collateralized by such securities. The portfolios of the Money Market Fund and the Money Market Portfolios calculate their respective net asset values in accordance with rule 2a–7 under the 1940 Act and seek to maintain a constant net asset value of $1.00 per share.

4. All portfolios of the Funds, other than the Money Market Portfolios, are hereinafter referred to as the "Non-Money Market Portfolios." Each of the Non-Money Market Portfolios seeks to be fully invested in the various securities authorized by their respective investment objectives. However, a portion of each Non-Money Market Portfolios' net assets may at times be held in case or short-term securities for purposes of redemption or pending investment in portfolio securities. The cash balances of the Non-Money Market Portfolios usually derive from the following sources: (a) New monies received from investors, (b) dividends or interest received from portfolio securities, (c) unsettled or "failed" securities transactions, and (d) liquidation of investment securities to meet redemptions and cash dividend payments.

5. Applicants proposed investing the cash balances of the Non-Money Market Portfolios in shares of the Money Market Fund and the Money Market Portfolios. Applicants maintain that Vanguard, as the Funds' investment adviser, is in the best position to identify the amount of cash balances held by the Non-Money Market Portfolios, the purpose of or need for such cash balances, and the most efficient means of investing the balances. Cash balances held by an individual Non-Money Market Portfolio may not be large enough to make a direct investment in money market instruments economical. Absent the requested exemptive order, the Funds and the Money Market Funds would be at a disadvantage because separate investment of the Non-Money Market Portfolios' cash balances would generate lower returns than available through the Money Market Fund and Money Market Portfolios. In addition, the highest quality money market instruments are generally available only in large denominations, thus often excluding the Non-Money Market Portfolios from this investment opportunity. Investing small cash balances also entails practical difficulties, such as increased administrative burdens resulting from the fragmentation of assets for cash investments, and reduced control over the types, quality and maturity of short-term investments. By investing these balances in the Money Market Fund and the Money Market Portfolios, the Non-Money Market Portfolios will reduce their transaction costs and enjoy greater returns.

Applicants' Legal Analysis

6. Sections 17(a) (1) and (2) of the 1940 Act make it unlawful for any affiliated person of a registered investment company, acting as principal, to sell or purchase any security to or from such investment company unless the transaction comes within certain exceptions. As the Funds' investment adviser, Vanguard comes within the definition of an affiliated person. The Funds are affiliated persons of each other as members of the same fund complex with a common investment adviser. Since the proposed purchases and redemptions by the Non-Money Market Portfolios of shares of the Money Market Fund and the Money Market Portfolios do not come within the exceptions provided in section 17(a). Applicants request an order under sections 6(c) and 17(b) to permit (a) the Money Market Funds and Money Market Portfolios to sell their shares to the Non-Money Market Portfolios, and (b) the Money Market Fund and the Money Market Portfolios to purchase (redeem) their respective shares from the Non-Money Market Portfolios.

7. The proposed transactions may also be deemed to violate section 17(d) and rule 17d–1 thereunder which prohibits an affiliated person of an investment company to participate in or effect any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates absent an SEC order. Thus, Applicants request an order under Rule 17d–1 to permit the proposed purchases, sales and redemptions of the shares of the Money Market Fund and of the Money Market Portfolios and to permit Vanguard to effect such purchases and sales.

8. Section 12(d)(1) of the 1940 Act limits the amount of investment company shares another investment company may acquire. Applicants, however, require no relief from section 12(d)(1) since they will comply with the percentage limitation set forth therein.

9. Applicants contend that the standards for exemption from section 17(a) set forth in section 17(b) will be satisfied because the shares of the Money Market Fund and the Money Market Portfolios will be purchased and redeemed at their net asset value, the same treatment accorded other non-affiliated shareholders. They state that since all purchases and sales are on the same basis, there will be no overreaching by any person. The investment policies of the Funds permit the sale and purchase of money market instruments and authorize the Funds to invest cash balances directly in money market instruments if a higher return is available. On the other hand, the Money Market Portfolios reserve the right to discontinue selling shares to the Non-Money Market Portfolios if such sales would affect adversely the management of their portfolios. Furthermore, there will be no duplicative management and administrative costs because the portion of each Non-Money Market Portfolio's net asset value attributable to holdings in the Money Market Fund and the Money Market Portfolio will be excluded from such Non-Money Market Portfolio's aggregate net asset value in the calculation of its management and administrative costs.

10. Applicants contend that the investor protection standards of section 6(c) are met for the same reasons and that the proposed tranactions are in the public interest because they provide improved opportunities to increase shareholders' return, reduce transaction costs, and expand investment opportunities.

11. Because the Non-Money Market Portfolios agree to purchase and redeem shares of the Money Market Fund and the Money Market Portfolios at the same time and price, and will receive

dividends and bear expenses on the same basis as all other shareholders, Applicants argue that Rule 17d–1 is satisfied in that the Non-Money Market Portfolios' participation is on the same basis and no less advantageous than that of other participants. To the extent that the Non-Money Market Portfolios' investment increases the transaction costs of the Money Market Fund and the Money Market Portfolios, it is expected that the additional assets will offset most or all of these costs and absorb some of the fixed costs that would otherwise be spread across a smaller asset base.

Applicants' Conditions

Applicants agree to the following as conditions for the requested relief:

1. The Money Market Fund and the Money Market Portfolios will calculate their respective net asset values in accordance with Rule 2a–7.

2. The Money Market Fund and the Money Market Portfolios will not be subject to a sales load, redemption fees, or distribution fees under a Rule 12b–1 plan.

3. Vanguard will waive all management and administrative fees payable under its contracts with the Funds to the extent attributable to the net assets of the Money Market Fund and the Money Market Portfolio held by the Non-Money Market Portfolios.

4. The Non-Money Market Portfolios will vote their number of Money Market Fund and Money Market Portfolio shares in the same proportion as the votes of all other shareholders in the Money Market Fund and Money Market Portfolios.

5. The Non-Money Market Portfolios will purchase and redeem shares of the Money Market Fund and Money Market Portfolios at the same time and at the same price, and will receive dividends and bear their proportionate share of expenses on the same basis as other shareholders of the Money Market Fund and Money Market Portfolios. A separate account will be established in the shareholder records of the Money Market Fund and Money Market Portfolios for each acquiring Non-Money Market Portfolio.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90–19002 Filed 8–13–90; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Docket No. 1239]

Public Information Collection Requirement Submitted to OMB for Review

AGENCY: Department of State.

ACTION: The Department of State has submitted the following public information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511.

SUMMARY: Exemption from taxes on goods and services for foreign diplomatic and consular missions is a benefit under the Foreign Missions Act (22 U.S.C. 4301 *et seq.*), which must be obtained through the Office of Foreign Missions. The proposed tax exemption card application form is required to obtain the information necessary to provide and administer the benefit efficiently. The following summarizes the information collection proposal submitted to OMB:

Type of request—Existing collection without an OMB Control Number
Originating office—Office of Foreign Missions
Title of information collection—Tax Exemption Card Application
Frequency—On occasion
Form No.—DSP–106
Respondents—Foreign Diplomatic and Consular Missions and eligible personnel and dependents in the United States
Estimated number of respondents—7,500
Average hours per response—20 minutes
Total estimated burden hours—2,475

Section 3504(h) of Public Law 96–511 does not apply.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed forms and supporting documents may be obtained from Gail J. Cook (202) 647–3538. Comments and questions should be directed to (OMB) Marshall Mills (202) 395–7340.

Dated: July 25, 1990.

Sheldon J. Krys,

Assistant Secretary for Diplomatic Security.

[FR Doc. 90–18998 Filed 8–13–90; 8:45 am]

BILLING CODE 4710–20–M

[Public Notice No. 1237]

Study Group 9 of the U.S. Organization for the International Radio Consultative Committee; Meeting

The Department of State announces that Study Group 9 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will hold an open meeting September 11, 1990 at the Federal Communication Commission, 1919 M Street NW., Washington, DC in room 535 commencing at 9:30 a.m.

Study Group 9 deals with matters relating primarily to the study of radio relay systems. The purpose of the meeting is to review ongoing Interim Working Party activities, to review the U.S. Study Group 9 organization in light of the decisions of the XVII Plenary Assembly and to organize work to be undertaken in the new study cycle.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Requests for further information should be directed to Mr. Alex Latker, International Conference Staff, Common Carrier Bureau, Federal Communication Commission, Washington, DC 20554, phone (202) 632–3214.

Dated: July 30, 1990.

Warren G. Richards,

Chairman, U.S. CCIR National Committee.

[FR Doc. 90–18999 Filed 8–13–90; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Department Circular—Public Debt Series—No. 23–90]

Treasury Bonds of 2020

Washington, August 2, 1990.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of chapter 31 of title 31, United States Code, invites tenders for approximately $10,250,000,000 of United States securities, designated Treasury Bonds of 2020 (CUSIP No. 912810 EG 9), hereafter referred to as Bonds. The Bonds will be sold at auction, with bidding on the basis of yield. Payments will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Bonds and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the bonds may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Bonds may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Bonds will be dated August 15, 1990, and will accrue interest from that date, payable on a semiannual basis on February 15, 1991, and each subsequent 6 months on August 15 and February 15 through the date that the principal becomes payable. They will mature August 15, 2020, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Bonds are subject to all taxes imposed under the Internal Revenue Code of 1954. The Bonds are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Bonds will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Bonds will be issued only in book-entry form in a minimum amount of $1,000 and in multiples of that amount. They will not be issued in registered definitive or in bearer form.

2.5. A Bond may be held in its fully constituted form or it may be divided into its separate Principal and Interest Components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as fiscal agents of the United States. The provisions specifically applicable to the separation, maintenance, transfer, and reconstitution of Principal and Interest Components are set forth in section 6 of this circular. Subsections 2.1. through 2.4. of this section are descriptive of Bonds in their fully constituted form; the description of the separate Principal and Interest components is set forth in section 6 of this circular.

2.6. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2–86 (31 CFR part 357), apply to the Bonds offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239–1500, prior to 1:00 p.m., Eastern Daylight Saving time, Thursday, August 9, 1990. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Wednesday, August 8, 1990, and received no later than Wednesday, August 15, 1990.

3.2. The par amount of Bonds bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks. Tenders from all others must be accompanied by full payment for the amount of Bonds applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitve tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 92.500. That stated rate of interest will be paid on all of the Bonds. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitve tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Bonds specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Bonds allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was

submitted. Settlement on Bonds allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.5. must be made or completed on or before Wednesday, August 15, 1990. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treausry; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Monday, August 13, 1990. When payment has been submitted with the tender and the purchase price of the Bonds allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Bonds allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Bonds allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the Bond being purchased. In any such case, the tender form used to place the Bonds allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. Separability of Principal and Interest

6.1. Under the Treasury's STRIPS Program (Separate Trading of Registered Interest and Principal of Securities), a Bond may be divided into its separate components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as Fiscal Agents of the United States. The separate STRIPS components are: each future semiannual interest payment (referred to as an Interest Component) and the principal payment (referred to as the Principal Component). Each Interest Component and the Principal Component shall have an identifying designation and CUSIP number, which are set forth in Attachment A to this circular.

6.2. Attachment A also provides the payable dates for the separate components. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

6.3. For a Bond to be separated into the components described in Section 6.1., the par amount of the Bond must be in an amount which, based on the stated interest rate of the Bond, will produce a semiannual interest payment of $1,000 or a multiple of $1,000. Attachment B to this circular provides the minimum par amounts required to separate a security at various interest rates, as well as the interest payments corresponding to those minimum par amounts. Par amounts greater than the minimum amount must be in multiples of that amount. The minimum par amount for this offering will be provided in the public announcement of the amount and yield range of accepted bids.

6.4. A Bond may be separated into its components at any time from the issue date until maturity. A request for separation must be made to the Federal Reserve Bank maintaining the account for the Bonds. Once a Bond has been separated into its components, the components may be maintained and transferred in multiples of $1,000.

6.5. Interest Components and Principal Components in multiples of $1,000 will be acceptable to secure deposits of Federal Public monies. They will not be acceptable in payment of Federal taxes.

6.6. Interest and Principal Components of separated securities may be reconstituted, i.e., restored to their fully constituted form, on the book-entry records of the Federal Reserve Banks. A Principal Component and all related unmatured Interest Components, in the appropriate minimum or multiple amounts previously announced, must be submitted together for reconstitution.

6.7. Detached physical interest coupons, coupons held under the CUBES Program, or cash payments may not be substituted for missing Interest or Principal Components. Any reconstitution request which does not comprise all of the necessary STRIPS components in the appropriate amounts will not be accepted.

6.8. The book-entry transfer of each Interest Component and Principal Component included in a reconstitution transaction will be subject to the fee schedule generally applicable to transfers of book-entry Treasury securities.

6.9. Unless otherwise provided in this offering circular, the Department of the Treasury's general regulations governing United States securities apply to the Bonds separated into their components.

7. General Provisions

7.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Bonds.

7.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Bonds. Public announcement of such changes will be promptly provided.

7.3. The Bonds issued under this circular shall be obligations of the United States, whether held in the fully constituted form or as separate Interest and Principal Components, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Bonds.

7.4. Attachments A and B are incorporated as part of this circular.

Marcus W. Page,

Acting Fiscal Assistant Secretary.

ATTACHMENT A—CUSIP Numbers and Designations for the Principal Component and Interest Components of Treasury Bonds of August 15, 2020, CUSIP No. 912810 EG 9

The Principal Component is designated (Interest Rate) Treasury Principal (TPRN) 2020 due August 15, 2020, CUSIP No. 912803 AU 7.

INTEREST COMPONENTS

Designation	CUSIP No. 912833	Designation	CUSIP No. 912833
Treasury Interest (TINT) due		Treasury Interest (TINT) due	
February 15, 1991	BH 2	February 15, 2006	CP 3
August 15, 1991	BJ 8	August 15, 2006	CQ 1
February 15, 1992	BK 5	February 15, 2007	CR 9
August 15, 1992	BL 3	August 15, 2007	CS 7
February 15, 1993	BM 1	February 15, 2008	CT 5
August 15, 1993	BN 9	August 15, 2008	CU 2
February 15, 1994	BP 4	February 15, 2009	CV 0
August 15, 1994	BQ 2	August 15, 2009	CW 8
February 15, 1995	BR 0	February 15, 2010	CX 6
August 15, 1995	BS 8	August 15, 2010	CY 4
February 15, 1996	BT 6	February 15, 2011	CZ 1
August 15, 1996	BU 3	August 15, 2011	DA 5
February 15, 1997	BV 1	February 15, 2012	DB 3
August 15, 1997	BW 9	August 15, 2012	DC 1
February 15, 1998	BX 7	February 15, 2013	DD 9
August 15, 1998	BY 5	August 15, 2013	DE 7
February 15, 1999	BZ 2	February 15, 2014	DF 4
August 15, 1999	CA 6	August 15, 2014	DG 2
February 15, 2000	CB 4	February 15, 2015	DH 0
August 15, 2000	CC 2	August 15, 2015	JT 8
February 15, 2001	CD 0	February 15, 2016	KG 8
August 15, 2001	CE 8	August 15, 2016	KJ 8
February 15, 2002	CF 5	February 15, 2017	KL 3
August 15, 2002	CG 3	August 15, 2017	KN 9
February 15, 2003	CH 1	February 15, 2018	KQ 2
August 15, 2003	CJ 7	August 15, 2018	KS 8
February 15, 2004	CK 4	February 15, 2019	KU 3
August 15, 2004	CL 2	August 15, 2019	KW 9
February 15, 2005	CM 0	February 15, 2020	KY 5
August 15, 2005	CN 8	August 15, 2020	LA 6

BILLING CODE 4810-40-M

ATTACHMENT B

MINIMUM FACE AMOUNTS WHICH ARE MULTIPLES OF $1000 REQUIRED IN ORDER TO PRODUCE INTEREST PAYMENTS THAT ARE MULTIPLES OF $1000.

COUPON ($)	MINIMUM FACE ($)	INTEREST PAYMENT ($)	COUPON ($)	MINIMUM FACE ($)	INTEREST PAYMENT ($)	COUPON ($)	MINIMUM FACE ($)	INTEREST PAYMENT ($)
5.000	40000.00	1000.00	10.125	1600000.00	81000.00	15.250	800000.00	61000.00
5.125	1600000.00	41000.00	10.250	800000.00	41000.00	15.375	1600000.00	123000.00
5.250	800000.00	21000.00	10.375	1600000.00	83000.00	15.500	400000.00	31000.00
5.375	1600000.00	43000.00	10.500	400000.00	21000.00	15.625	64000.00	5000.00
5.500	400000.00	11000.00	10.625	320000.00	17000.00	15.750	800000.00	63000.00
5.625	320000.00	9000.00	10.750	800000.00	43000.00	15.875	1600000.00	127000.00
5.750	800000.00	23000.00	10.875	1600000.00	87000.00	16.000	25000.00	2000.00
5.875	1600000.00	47000.00	11.000	200000.00	11000.00	16.125	1600000.00	129000.00
6.000	100000.00	3000.00	11.125	1600000.00	89000.00	16.250	160000.00	13000.00
6.125	1600000.00	49000.00	11.250	160000.00	9000.00	16.375	1600000.00	131000.00
6.250	32000.00	1000.00	11.375	1600000.00	91000.00	16.500	400000.00	33000.00
6.375	1600000.00	51000.00	11.500	400000.00	23000.00	16.625	1600000.00	133000.00
6.500	400000.00	13000.00	11.625	1600000.00	93000.00	16.750	800000.00	67000.00
6.625	1600000.00	53000.00	11.750	800000.00	47000.00	16.875	320000.00	27000.00
6.750	800000.00	27000.00	11.875	320000.00	19000.00	17.000	200000.00	17000.00
6.875	320000.00	11000.00	12.000	50000.00	3000.00	17.125	1600000.00	137000.00
7.000	200000.00	7000.00	12.125	1600000.00	97000.00	17.250	800000.00	69000.00
7.125	1600000.00	57000.00	12.250	800000.00	49000.00	17.375	1600000.00	139000.00
7.250	800000.00	29000.00	12.375	1600000.00	99000.00	17.500	80000.00	7000.00
7.375	1600000.00	59000.00	12.500	16000.00	1000.00	17.625	1600000.00	141000.00
7.500	80000.00	3000.00	12.625	1600000.00	101000.00	17.750	800000.00	71000.00
7.625	1600000.00	61000.00	12.750	800000.00	51000.00	17.875	1600000.00	143000.00
7.750	800000.00	31000.00	12.875	1600000.00	103000.00	18.000	100000.00	9000.00
7.875	1600000.00	63000.00	13.000	200000.00	13000.00	18.125	320000.00	29000.00
8.000	25000.00	1000.00	13.125	320000.00	21000.00	18.250	800000.00	73000.00
8.125	320000.00	13000.00	13.250	800000.00	53000.00	18.375	1600000.00	147000.00
8.250	800000.00	33000.00	13.375	1600000.00	107000.00	18.500	400000.00	37000.00
8.375	1600000.00	67000.00	13.500	400000.00	27000.00	18.625	1600000.00	149000.00
8.500	400000.00	17000.00	13.625	1600000.00	109000.00	18.750	32000.00	3000.00
8.625	1600000.00	69000.00	13.750	160000.00	11000.00	18.875	1600000.00	151000.00
8.750	160000.00	7000.00	13.875	1600000.00	111000.00	19.000	200000.00	19000.00
8.875	1600000.00	71000.00	14.000	100000.00	7000.00	19.125	1600000.00	153000.00
9.000	200000.00	9000.00	14.125	1600000.00	113000.00	19.250	800000.00	77000.00
9.125	1600000.00	73000.00	14.250	800000.00	57000.00	19.375	320000.00	31000.00
9.250	800000.00	37000.00	14.375	320000.00	23000.00	19.500	400000.00	39000.00
9.375	64000.00	3000.00	14.500	400000.00	29000.00	19.625	1600000.00	157000.00
9.500	400000.00	19000.00	14.625	1600000.00	117000.00	19.750	800000.00	79000.00
9.625	1600000.00	77000.00	14.750	800000.00	59000.00	19.875	1600000.00	159000.00
9.750	800000.00	39000.00	14.875	1600000.00	119000.00	20.000	10000.00	1000.00
9.875	1600000.00	79000.00	15.000	40000.00	3000.00	20.125	1600000.00	161000.00
10.000	20000.00	1000.00	15.125	1600000.00	121000.00	20.250	800000.00	81000.00

[FR Doc. 90–15183 Filed 8–10–90; 12:27 pm]
BILLING CODE 4810–40–C

[Department Circular—Public Debt Series—No. 22–90]

Treasury Notes of August 15, 2000, Series C–2000

Washington, August 2, 1990.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of chapter 31 of title 31, United States Code, invites tenders for approximately $10,500,000,000 of United States securities, designated Treasury Notes of August 15, 2000, Series C–2000 (CUSIP No. 912827 ZE 5), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated August 15, 1990, and will accrue interest from that date, payable on a semiannual basis on February 15, 1991, and each subsequent 6 months on August 15 and February 15 through the date that the principal becomes payable. They will mature August 15, 2000, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form in a minimum amount of $1,000 and in multiples of that amount. They will not be issued in registered definitive or in bearer form.

2.5. A Note may be held in its fully constituted form or it may be divided into its separate Principal and Interest Components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as fiscal agents of the United States. The provisions specifically applicable to the separation, maintenance, transfer, and reconstitution of Principal and Interest Components are set forth in section 6 of this circular. Subsections 2.1. through 2.4. of this section are descriptive of Notes in their fully constituted form; the description of the separate Principal and Interest components is set forth in section 6 of this circular.

2.6. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2–86 (31 CFR part 357), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239–1500, prior to 1 p.m., Eastern Daylight Saving time, Wednesday, August 8, 1990. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, August 7, 1990, and received no later than Wednesday, August 15, 1990.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 97.500. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price of each competitive tender alloted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield.

Tenders received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.5. must be made or completed on or before Wednesday, August 15, 1990. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Monday, August 13, 1990. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the Note being purchased. In any such case, the tender form used to place the Notes allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. Separability of Principal and Interest

6.1. Under the Treasury's STRIPES Program (Separate Trading of Registered Interest and Principal of Securities), a Note may be divided into its separate components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as Fiscal Agents of the United States. The separate STRIPS components are: each future semiannual interest payment (referred to as an Interest Component) and the principal payment (referred to as the Principal Component). Each Interest Component and the Principal Component shall have an identifying designation and CUSIP number, which are set forth in Attachment A to this circular.

6.2. Attachment A also provides the payable dates for the separate components. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

6.3. For a Note to be separated into the components described in section 6.1., the par amount of the Note must be in an amount which, based on the stated interest rate of the Note, will produce a semiannual interest payment of $1,000 or a multiple of $1,000. Attachment B to this circular provides the minimum par amounts required to separate a security at various interest rates, as well as the interest payments corresponding to those mininum par amounts. Par amounts greater than the minimum amount must be in multiples of that amount. The minimum par amount for this offering will be provided in the public announcement of the amount and yield range of accepted bids.

6.4. A note may be separated into its components at any time from the issue date until maturity. A request for separation must be made to the Federal Reserve Bank maintaining the account for the Notes. Once a Note has been separated into its components, the components may be maintained and transferred in multiples of $1,000.

6.5. Interest Components and Principal Components in multiples of $1,000 will be acceptable to secure deposits of Federal public monies. They will not be accepted in payment of Federal taxes.

6.6. Interest and Principal Components of separated securities may be reconstituted, i.e., restored to their fully constituted form, on the book-entry records of the Federal Reserve Banks. A Principal Component and all related unmatured Interest Components, in the appropriate minimum or multiple amounts previously announced, must be submitted together for reconstitution.

6.7. Detached physical interest coupons, coupons held under the CUBES Program, or cash payments may not be substituted for missing Interest or Principal Components. Any reconstitution request which does not comprise all of the necessary STRIPES components in the appropriate amounts will not be accepted.

6.8. The book-entry transfer of each Interest Component and Principal Component included in a reconstitution transaction will be subject to the fee schedule generally applicable to transfers of book-entry Treasury securities.

6.9 Unless otherise provided in this offering circular, the Department of the Treasury's general regulations governing United States securities apply to the Notes separated into their components.

7. General Provisions

7.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

7.2. The Secretary of the Treasury may, at any time, supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

7.3. The Notes issued under this circular shall be obligations of the United States, whether held in the fully constituted form or as separate Interest and Principal Components, and, therefore, the faith of the United States Government is pledged to pay, in legal tenger, principal and interest on the Notes.

7.4. Attachments A and B are incorporated as part of this circular.

Marcus W. Page,

Acting Fiscal Assistant Secretary.

Attachment A—CUSIP Numbers and Designations for the Principal Component and Interest Components of Treasury Notes of August 15, 2000, Series C–2000, CUSIP No. 912827 ZE 5.

The principal Component is designated (Interest Rate) Treasury

Principal (TPRN) Series C–2000 due August 15, 2000, CUSIP No. 912820 AX 5.

INTEREST COMPONENTS

Designation	CUSIP No. 912833
Treasury Interest (TINT) due:	
Feb. 15, 1991	BH 2
Aug. 15, 1991	BJ 8
Feb. 15, 1992	BK 5
Aug. 15, 1992	BL 3
Feb. 15, 1993	BM 1

INTEREST COMPONENTS—Continued

Designation	CUSIP No. 912833
Aug. 15, 1993	BN 9
Feb. 15, 1994	BP 4
Aug. 15, 1994	BQ 2
Feb. 15, 1995	BR 0
Aug. 15 1995	BS 8
Feb. 15, 1996	BT 6
Aug. 15, 1996	BU 3
Feb. 15, 1997	BV 1
Aug. 15, 1997	BW 9
Feb. 15, 1998	BX 7

INTEREST COMPONENTS—Continued

Designation	CUSIP No. 912833
Aug. 15, 1998	BY 5
Feb. 15, 1999	BZ 2
Aug. 15, 1999	CA 6
Feb. 15, 2000	CB 4
Aug. 15, 2000	CC 2

BILLING CODE 4810-40-M

ATTACHMENT B

MINIMUM FACE AMOUNTS WHICH ARE MULTIPLES OF $1000 REQUIRED IN ORDER TO PRODUCE INTEREST PAYMENTS THAT ARE MULTIPLES OF $1000

COUPON (%)	MINIMUM FACE ($)	INTEREST PAYMENT ($)	COUPON (%)	MINIMUM FACE ($)	INTEREST PAYMENT ($)	COUPON (%)	MINIMUM FACE ($)	INTEREST PAYMENT ($)
5.000	40000.00	1000.00	10.125	1600000.00	81000.00	15.250	800000.00	61000.00
5.125	1600000.00	41000.00	10.250	800000.00	41000.00	15.375	1600000.00	123000.00
5.250	800000.00	21000.00	10.375	1600000.00	83000.00	15.500	400000.00	31000.00
5.375	1600000.00	43000.00	10.500	400000.00	21000.00	15.625	64000.00	5000.00
5.500	400000.00	11000.00	10.625	320000.00	17000.00	15.750	800000.00	63000.00
5.625	320000.00	9000.00	10.750	800000.00	43000.00	15.875	1600000.00	127000.00
5.750	800000.00	23000.00	10.875	1600000.00	87000.00	16.000	25000.00	2000.00
5.875	1600000.00	47000.00	11.000	200000.00	11000.00	16.125	1600000.00	129000.00
6.000	100000.00	3000.00	11.125	1600000.00	89000.00	16.250	160000.00	13000.00
6.125	1600000.00	49000.00	11.250	160000.00	9000.00	16.375	1600000.00	131000.00
6.250	32000.00	1000.00	11.375	1600000.00	91000.00	16.500	400000.00	33000.00
6.375	1600000.00	51000.00	11.500	400000.00	23000.00	16.625	1600000.00	133000.00
6.500	400000.00	13000.00	11.625	1600000.00	93000.00	16.750	800000.00	67000.00
6.625	1600000.00	53000.00	11.750	800000.00	47000.00	16.875	320000.00	27000.00
6.750	800000.00	27000.00	11.875	320000.00	19000.00	17.000	200000.00	17000.00
6.875	320000.00	11000.00	12.000	50000.00	3000.00	17.125	1600000.00	137000.00
7.000	200000.00	7000.00	12.125	1600000.00	97000.00	17.250	800000.00	69000.00
7.125	1600000.00	57000.00	12.250	800000.00	49000.00	17.375	1600000.00	139000.00
7.250	800000.00	29000.00	12.375	1600000.00	99000.00	17.500	80000.00	7000.00
7.375	1600000.00	59000.00	12.500	16000.00	1000.00	17.625	1600000.00	141000.00
7.500	80000.00	3000.00	12.625	1600000.00	101000.00	17.750	800000.00	71000.00
7.625	1600000.00	61000.00	12.750	800000.00	51000.00	17.875	1600000.00	143000.00
7.750	800000.00	31000.00	12.875	1600000.00	103000.00	18.000	100000.00	9000.00
7.875	1600000.00	63000.00	13.000	200000.00	13000.00	18.125	320000.00	29000.00
8.000	25000.00	1000.00	13.125	320000.00	21000.00	18.250	800000.00	73000.00
8.125	320000.00	13000.00	13.250	800000.00	53000.00	18.375	1600000.00	147000.00
8.250	800000.00	33000.00	13.375	1600000.00	107000.00	18.500	400000.00	37000.00
8.375	1600000.00	67000.00	13.500	400000.00	27000.00	18.625	1600000.00	149000.00
8.500	400000.00	17000.00	13.625	1600000.00	109000.00	18.750	32000.00	3000.00
8.625	1600000.00	69000.00	13.750	160000.00	11000.00	18.875	1600000.00	151000.00
8.750	160000.00	7000.00	13.875	1600000.00	111000.00	19.000	200000.00	19000.00
8.875	1600000.00	71000.00	14.000	100000.00	7000.00	19.125	1600000.00	153000.00
9.000	200000.00	9000.00	14.125	1600000.00	113000.00	19.250	800000.00	77000.00
9.125	1600000.00	73000.00	14.250	800000.00	57000.00	19.375	320000.00	31000.00
9.250	800000.00	37000.00	14.375	320000.00	23000.00	19.500	400000.00	39000.00
9.375	64000.00	3000.00	14.500	400000.00	29000.00	19.625	1600000.00	157000.00
9.500	400000.00	19000.00	14.625	1600000.00	117000.00	19.750	800000.00	79000.00
9.625	1600000.00	77000.00	14.750	800000.00	59000.00	19.875	1600000.00	159000.00
9.750	800000.00	39000.00	14.875	1600000.00	119000.00	20.000	10000.00	1000.00
9.875	1600000.00	79000.00	15.000	40000.00	3000.00	20.125	1600000.00	161000.00
10.000	20000.00	1000.00	15.125	1600000.00	121000.00	20.250	800000.00	81000.00

[FR Doc. 90-19182 Filed 8-10-90; 12:27 pm]
BILLING CODE 4810-40-C

[Department Circular—Public Debt Series—No. 21–90]

Treasury Notes of August 15, 1993, Series U–1993

Washington, August 2, 1990.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of chapter 31 of title 31, United States Code, invites tenders for approximately $11,500,000,000 of United States securities, designated Treasury Notes of August 15, 1993, Series U–1993 (CUSIP No. 912827 ZD 7), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated August 15, 1990, and will accrue interest from that date, payable on a semiannual basis on February 15, 1991, and each subsequent 6 months on August 15 and February 15 through the date that the principal becomes payable. They will mature August 15, 1993, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable without additional interest on the next business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form in a minimum amount of $5,000 and in multiples of that amount. They will not be issued in registered definitive or in bearer form.

2.5. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2–86 (31 CFR part 357), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239–1500, prior to 1 p.m., Eastern Daylight Saving time, Tuesday, August 7, 1990. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, August 6, 1990, and received no later than Wednesday, August 15, 1990.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.250. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the

amount of Notes specified in section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.5 must be made or completed on or before Wednesday, August 15, 1990. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Monday, August 13, 1990. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the note being purchased. In any such case, the tender form used to place the Notes allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may, at any time, supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

Marcus W. Page,

Acting Fiscal Assistant Secretary.

[FR Doc. 90-19181 Filed 8-10-90; 12:27 pm]

BILLING CODE 4810-40-M

Bureau of Alcohol, Tobacco and Firearms

Granting of Relief; Federal Firearms Privileges

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF).

ACTION: Notice of Granting of Restoration of Federal Firearms Privileges.

SUMMARY: The persons named in this notice have been granted restoration of their Federal firearms privileges by the Director, Bureau of Alcohol, Tobacco and Firearms.

As a result, these persons may lawfully acquire, transfer, receive, ship, and possess firearms if they are in compliance with applicable laws of the jurisdiction in which they live.

FOR FURTHER INFORMATION CONTACT: Special Agent in Charge Charles R. Demski, Firearms Enforcement Branch, Firearms Division, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226, (202-566-7258).

SUPPLEMENTARY INFORMATION: In accordance with 18 U.S.C. 925(c), the persons named in this notice have been granted restoration of Federal firearms privileges with respect to the acquisition, transfer, receipt, shipment, or possession of firearms. These privileges were lost by reason of their convictions of crimes punishable by imprisonment for a term exceeding one year or because they otherwise fell within a category of persons prohibited by Federal law from acquiring, transferring, receiving, shipping or possessing firearms.

It has been established to the Director's satisfaction that the circumstances regarding the applicants' disabilities and each applicant's record and reputation are such that the applicants will not be likely to act in a manner dangerous to public safety, and that the granting of the restoration will not be contrary to the public interest.

The following persons have been granted restoration:

ARRIS, David Alexander, 2818 Northview Drive Southwest, Roanoke, Virginia, convicted on July 11, 1985, in the Alamance County Superior Court, Graham, North Carolina.

BARBER, John Richard, 714 Lower Donnally Road, Charleston, West Virginia, convicted on October 2, 1979, in the United States District Court, Southern District of West Virginia, Charleston, West Virginia.

BELL, Jerry Lee Junior, 108 North Mall, Trussville, Alabama, convicted on April 5, 1972, in the United States District Court, Rome, Georgia.

BENNETT, George Kenneth, Route 1, Box 192, Red Level, Alabama, convicted on May 4, 1973, in the United States District Court, Middle District of Alabama.

BETTS, John Charles, 8 Avenue B, Kings Park, New York, convicted on October 29, 1981, in the Suffolk County Court, Riverhead, New York.

BRANT, Steven John, 7808 West Morgan Avenue, Apartment 3, Milwaukee, Wisconsin, convicted on April 27, 1981, in the Milwaukee County Circuit Court, Milwaukee, Wisconsin.

BREATH, Alfred Autrey, 2633 Tanglewood, Grapevine, Texas, convicted on April 22, 1983, in the United States District Court, Northern District of Texas, Fort Worth, Texas.

BROOKS, Bill Ronald, Route 14, Box 568-9, Gadsden, Alabama, convicted on April 5, 1978, in the Circuit Court, Jackson County, Alabama.

BROOKS, Randy Blake, 1711 Anita Drive, Laurinburg, North Carolina, convicted on March 3, 1983, in the United States District Court, Middle Judicial District of North Carolina, Greensboro, North Carolina.

BUTCHER, Warren Franklin, 508 West Broadway, Montesano, Washington, convicted on December 30, 1983, in the Snohomish County Superior Court, Washington.

CARLSON, John David, 900 South Foster Street, Merrill, Wisconsin, convicted on October 19, 1984, in the Shawano County District Court, Shawano, Wisconsin; and on December 5, 1984, in the Lincoln County District Court, Merrill, Wisconsin.

CARLSON, Scott Allan, 616 West Humbird Street, Rice Lake, Wisconsin, convicted on January 8, 1986, in the Carteret County Superior Court, Beaufort, North Carolina.

CARR, Lawrence Christian, 1213 Centennial Road, Fort Collins, Colorado, convicted on November 8, 1982, in the United States District Court, Western District of Louisiana, Lafayette, Louisiana.

CHENAULT, Roger Charles, 1112 73d Street, Newport News, Virignia, convicted on August 22, 1963, in the Circuit Court for the City of Hampton, Virginia.

CHURCH, Roland L., RFD Box 607, Cambridge, Maine, convicted on March 13,

1963, in the Superior Court, Skowhegan, Maine.

CLAUNCH, Lowell Wayne, 1516 Lee Road, Salem, Alabama, convicted on February 20, 1978, in the Circuit Court of Lee County, Alabama.

COLUCCI, Joseph James, Box 2657, Hailey, Idaho, convicted on July 20, 1964, in the United States District Court, Western District of Pennsylvania.

CONNELL, Douglas Marcus, 8004 Pinelake Road, Columbia, South Carolina, convicted on October 24, 1961, in the United States District Court, Columbia, South Carolina.

DAVIS, Gerald Everett, 31041 134th Street, Princeton, Minnesota, convicted on November 16, 1988, in the United States District Court, Fifth Division, St. Paul, Minnesota.

DAVIS, John E., 799 Popular Springs Road, Dalton, Georgia, convicted on April 5, 1985, in the United States District Court, Northern District of Georgia.

DAVIS, Lamb Dewane, Route 1, Box 1009, Cornelia, Georgia, convicted on May 3, 1985, in the United States District Court, Northern District of Georgia.

DAVIS, Randy Alan, 40385 Mohawk River Road, Marcola, Oregon, convicted on May 7, 1980, in the Lane County Superior Court, State of Oregon.

DUNKER, John F., 4937 South River Road, Hanover, Illinois, convicted on February 17, 1981, in the United States District Court, Western Division, Northern District of Illinois.

FRALEY, James Michael, Post Office Box 94, Route 32, Louisa, Kentucky, convicted on March 7, 1983, in the United States Army General Court, Aberdeen, Maryland.

FREUDENTHAL, Timothy Mark, 3–12 Chicago Road, Wautoma, Wisconsin, convicted on March 11, 1985, in the United States District Court, Milwaukee, Wisconsin.

GRAY, Gerald Daily, 160 North Michigan, Lot 112, Lawrence, Kansas, convicted on February 15, 1984, in the United States District Court, Topeka, Kansas.

GUTGSELL, Gary Alex, 5100 Verde Valley, Apartment 172, Dallas, Texas, convicted on February 4, 1985, in the Fourteenth Judical District Court, Calcasieu Parish, Louisiana.

HAJEK, Dennis William, 623 Army Belle Road, Colgate, Wisconsin, convicted on February 19, 1979, in the Washington County Court, West Bend, Wisconsin.

HANSON, Timothy Dean Senior, RFD 3, Box 86–AB, Dover-Foxcraft, Maine, convicted on December 1, 1978, in the Piscataquis County Court, Dover-Foxcraft, Maine.

HICKS, Barry Michael, 614 Ada Drive, Harrodsburg, Kentucky, convicted on November 20, 1981, in the Mercer County Circuit Court, Harrodsburg, Kentucky.

HULL, Lucien Thomas, Box 96, Briggsville, Wisconsin, convicted on October 6, 1983, in the Columbia County Circuit Court, Portage, Wisconsin.

IVANS, Howard John Junior, West 156 North 1137 Pilgram Road, Apartment 38, Germantown, Wisconsin, convicted on July 10, 1981, in the Milwaukee Circuit Court, Milwaukee, Wisconsin.

JOHNSON, John William Junior, 1927 Southeast Ohio, Topeka, Kansas, convicted on May 11, 1984, in the Shawnee County District Court, Shawnee County, Kansas.

KEEN, Gerald David, 195 Jackson Street, Dallas, Pennsylvania, convicted on January 19, 1979, in the United States District Court, Middle District of Pennsylvania, Scranton, Pennsylvania.

KERBS, Emmett Irving, 8285 Lent Trail, Stacy, Minnesota, convicted on August 20, 1973, in the United States District Court, Fourth Division, Minneapolis, Minnesota.

KOLINSKI, Thomas Allen, N7235 Highway Q, New Lisbon, Wisconsin, convicted on August 6, 1985, in the Juneau Circuit Court, Manston, Wisconsin.

KRECKMAN, Thomas Herbert, Rural Delivery 1, Cresco, Pennsylvania, convicted on July 20, 1977, in the United States District Court, Middle District of Pennsylvania, Scranton, Pennsylvania.

LEPAK, Marlin Theodore, 3671 Alpine Road, Marathon, Wisconsin, convicted on November 9, 1984, in the United States District Court, Western Judicial District of Madison, Wisconsin.

LIPSCOMB, Josephine M, 3709 Long Highway, Rural Route 3, Charlotte, Michigan, convicted on December 31, 1947, in the Ingham County Circuit Court, Mason, Michigan.

LOUIS, Steve Jean, 216 Huron Street, Apartment 3R, Brooklyn, New York, convicted on August 3, 1962, in the United States District Court, Southern Judicial District of New York.

LOUNSBURY, Owen Raymond, Post Office Box 108, St. Maries, Idaho, convicted on October 25, 1985, in the District Court of the First Judicial District of the State of Idaho, County of Benewah, Idaho.

LURVEY, David Alan, 6015 Crows Nest Drive, Indianapolis, Indiana, convicted on August 16, 1979, in the United States District Court, Indianapolis, Indiana.

MANDICK, Gary Alan, 2369 Southeast Boulevard, Apartment 1, Spokane, Washington, convicted on February 7, 1985, in the Superior Court, Spokane County, Spokane, Washington.

MARKUS, Thomas Leonard Junior, 565 North Somerset, Olathe, Kansas, convicted on Feburary 11, 1986, in the Superior County District Court, Minneapolis, Kansas.

MARTELL, Verne Jerome Junior, 1702 McKinley Avenue, Anchorage, Alaska, convicted on April 16, 1981, in the United States District Court, Southern District of California.

McCABE, Thomas James Junior, 13923 Lena Street, Orlando, Florida, convicted on October 18, 1974, in the Fourth Circuit Court, Norfolk, Virginia.

McDOUGALL, Frank Ivan, 4506 West Marlette, Glendale, Arizona, convicted on November 1, 1982, in the United States District Court, State of Arizona.

McMILLIAN, Julian Lofton, Route 1, Box 2C, Beatrice, Alabama, convicted on April 1, 1974, in the Circuit Court of Bolivar County, Mississippi.

MIKESELL, Charles M., 1041 Motor Vue, Butte, Montana, convicted on March 31, 1948, in the United States District Court, Eastern District of Michigan.

MOLSTAD, John H., Rural Route 3, Box 206, LaCrosse, Wisconsin, convicted on October 12, 1984, in the United States District Court, Western District of Wisconsin.

O'HEARN, Kevin Patrick, 3132 North 52d Street, Milwaukee, Wisconsin, convicted on March 17, 1982, in the Milwaukee Circuit Court, Milwaukee, Wisconsin.

PATTERSON, James Eldridge, Route 1, Box 109, Somerville, Alabama, convicted on May 6, 1968, in the Criminal Division, Circuit Court of Morgan County, Alabama.

PITZER, Ronnie Lynn, Post Office Box 117, Eastman, Wisconsin, convicted on May 20, 1971, in the Crewford County Circuit Court, Wisconsin.

PULCINE, Robert John, 2729 Hotel Drive, Edgertown, Wisconsin, convicted on August 25, 1977, in the Dane County Circuit Court, Madison, Wisconsin.

REZACHEK, Gary Charles, 1021 South 23rd Street, Manitowoc, Wisconsin, convicted on September 9, 1983, in the Manitowoc County Court, Manitowoc, Wisconsin.

RIVERS, Melvin A., 150 Washington Street, Apartment 4I, Hempstead, Long Island, New York, convicted on March 2, 1960, in the Brooklyn Superior Court, Brooklyn, New York.

ROGERS, Carl Andrew, Post Office Box 362, Pottsboro, Texas, convicted on April 15, 1985, in the United States District Court, Eastern District of Texas, Sherman, Texas.

SCHNEIDER, Jaime Ferguson, 2365 Claremont Drive, Boise, Idaho, convicted on September 9, 1985, in the Pend Oreille County Superior Court, Washington.

SECKER, Charles Harold, 2581 Genesee Street, Piffard, New York, convicted on May 10, 1965, in the Monroe County Court, Rochester, New York.

SMITH, Fletcher Altman Junior, 6322 Old Hickory Boulevard, Whites Creek, Tennessee, convicted on November 23, 1981, in the Division II Criminal Court, Davidson County, Tennessee, and on December 10, 1979, in the United States District Court, Middle District of Tennessee.

STRAWN, Jerry Donald, 418 Nancy Carol Avenue, Glencoe, Alabama, convicted on January 7, 1964, and May 14, 1974, in the United States District Court, Northern District of Alabama.

SUTTER, Leonard G., 610 Bellehaven, West Memphis, Arkansas, convicted on January 21, 1972, in the United States District Court, Memphis, Tennessee.

THOMASON, Herman Ezra, 141 Dublin Circle, Madison, Alabama, convicted on February 7, 1985, in the United States District Court, Northern District of Alabama.

TUCKER, James Leon, 703 Pine Street, Oneonta, Alabama, convicted on August 30, 1977, in the United States District Court, Birmingham, Alabama.

VANCE, Ralph Wendell, 8134 Pekin Road, Greenville, Indiana, convicted on August 19, 1966, in the United States District Court, Southern District of Indiana, Indianapolis, Indiana.

WARREN, Terry Alan, Route 2, Box 78–B, Cordova, Alabama, convicted on March 11, 1982, in the Walker County Circuit Court, Walker County, Alabama.

WHETSTONE, Amos E., 1117 Riverview Drive, West Point, Kentucky, convicted on October 3, 1967, in the LaGrange Circuit Court, LaGrange, Indiana.

WILFONG, Ronald Dean, 9516 South Shields, Apartment 212, Moore, Oklahoma, convicted on July 19, 1972, in DeValls Bluff, Arkansas; and on May 20, 1976, in the United States District Court, Western District of Oklahoma.

WUNDER, Steven Karl, 503½ Hall Street, Ripon, Wisconsin, convicted on January 5, 1982, in the Fond du Lac County Circuit Court, Branch II, Fond du Lac, Wisconsin.

ZUROSKY, Walter Vincent Junior, 5 Pin Oak Drive, East Sandwich, Massachusetts, convicted on January 24, 1979, in the United States District Court, Boston, Massachusetts.

Compliance with Executive Order 12291

It has been determined that this notice is not a "major rule" within the meaning of Executive Order 12291, because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Signed: August 2, 1990.

Stephen E. Higgins,

Director.

[FR Doc. 90-19038 Filed 8-13-90; 8:45 am]

BILLING CODE 4810-31-M

UNITED STATES INFORMATION AGENCY

Bureau of Education and Cultural Affairs University Affiliations Program: Application Notice for Fiscal Year 1991

Applications for grants from U.S. institutions of higher education are invited under the University Affilitations program. Authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87-256 (Fulbright-Hays Act). The Fulbright Program seeks to increase mutual understanding between the people of the United States and people of other countries.

Public reporting burden for this collection of information is estimated to average 30 hours per response, including the time for reviewing instructions, searching existing data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden estimate, to USIA Clearance Officer. M/ASP, U.S. Information Agency, 301 4th Street, SW., Washington, DC 20547; and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503.

(Information collection involved in this program has been cleared by OMB Approval Number 3116-0179 expiration date 12/31/92).

I. Summary

The Bureau of Educational and Cultural Affairs of the United States Information Agency announces a program of support for institutional partnerships between U.S. and foreign colleges and universities. Through the University Affiliations progam, USIA seeks to promote bilateral institutional relationships through grants for the exchange of faculty and staff for a period of three years, with programs scheduled to begin on or about September 30, 1991. Participating institutions should be prepared to exchange faculty and staff for teaching, lecturing, and research assignments of one month or longer (preferably three months or one semester); maintain their faculty on full salary and benefits; and receive visiting faculty from the partner institution. USIA grant funds, not to exceed $70,000 for bilateral projects and $100,000 for special trilateral projects (limited to programs in the American Republics and Europe), can be used to defray international travel and per diem expenses. A modest amount for materials is also allowed.

Proposals will be accepted either to establish new affiliations or to allow for innovations and strengthening of existing affiliations not previously funded by the University Affilitations program. *Proposals for technical or development assistance projects and feasibility studies to plan affiliations will not be considered.* Research proposals must include collaboration by researchers from both institutions and be linked to substantial participation in graduate-level seminars.

The competition, as described in separate geographic area programs, is limited to selected countries and academic disciplines which represent USIA's geographic and academic priorities for the University Affiliations program. Subject to the availability of funds, approximately 15-20 grants will be awarded for Fiscal Year 1991.

U.S. institutions are responsible for the submission of proposals and should collaborate with their foreign partners in planning and preparing proposals.

II. Eligibility

In the U.S., participation in the program is limited to accredited four-year colleges and universities, including graduate schools and consortia of universities, overseas, participation is limited to recognized degree-granting institutions for higher education and internationally recognized and highly regarded independent research institutes. Proposals from a consortium may be submitted by a member institution with authority to represent the consortium. Participants traveling under USIA grant support must be U.S. citizens (representing the U.S. university) and nationals of the country of the foreign partner (representing the foreign institution).

III. Geographic Area Programs

A. *Africa.*—The program will accept proposals for linkages with all Sub-Saharan countries with priority given to proposals for Congo, Kenya Nigeria, Senegal, South Africa, and Zimbabwe. Eligible academic fields are: anthropology, archeology, African Studies, American Studies (includes Afro-American Studies), business administration and management, economics, education, environmental studies, law, language and linguistics, literature, political science and public policy.

B. *American Republics.*—Eligible countries and academic field(s) are: Venezuela (American and Latin American studies); Brazil (environmental studies); Ecuador (economics and business administration); Argentina and Uruguay (higher education administration and governance); Chile (education, law, and political science); and Mexico (historic conservation with priority given to projects dealing with the historic center of Mexico City).

The program will also consider regional projects for Andean countries in the field of museum studies with emphasis on historical preservation. Projects must involve institutions in 2 or 3 of the following countries: Bolivia, Colombia, Ecuador, Peru, and Argentina. Research centers and university-affiliated or cooperating museums, as well as universities, may participate.

C. *East Asia/Pacific.*—Eligible countries and academic disciplines are: Australia and New Zealand (political science and public policy); Thailand (environmental studies); Hong Kong (American studies, economics, law, and environmental studies); Malaysia and Indonesia (American and Islamic studies); the People's Republic of China

(American and Chinese studies); the Philippines (Asian/American studies).

D. *Europe*—The program will accept proposals for the following countries: Bulgaria, Czechoslovakia, Hungary, Poland (preference will be given to proposals for linkages with institutions outside of Warsaw and Krakow), and the USSR (preference will be given to proposals for linkages with institutions in Byelorussia, Moldavia, and the Soviet Far East). Proposals should focus on one to three of the following disciplines: American Studies, business administration (especially industrial relations, commercial banking, and accounting), communication, economics, environmental studies, law, political science, and public administration. To commemorate the 500th anniversary of the European discovery of the Americas, proposals are also invited for linkages with Spain, but limited to projects in environmental studies.

E. *Near East/Middle East/South Asia*—The program will accept proposals for linkages with the following countries (priority countries are italized): *Algeria,* Bahrain, Bangladesh, Egypt, India, Israel, Jordan, Kuwait, Mauritania, Morocco, Nepal, Oman, *Pakistan,* Qatar, Saudi Arabia, Sri Lanka, Sudan, *Syrian Arab Republic, Tunisia,* United Arab Emirates, and Yemen. Eligible academic disciplines are: area and cultural studies (especially American Studies), business administration and management, communications, economics, education, language, linguistics, and literature, political science, and public policy.

N.B. All proposals for India must be accompanied by proof of approval of the proposed program by the Government of India in order to comply with USIA technical review requirements. U.S. institutions are advised to contact Indian partner institutions about this requirement as early as possible, since review processes of Indian government ministries do not coincide with USIA program deadline. Indian government approval must be sought through the Executive Director, U.S. Educational Foundation in India, 12 Hailey Road, New Delhi, India 110001. Tel 388944 through 388948. Cable USEFL.

F. *Special Competition Focusing on the 1992 Integration of Europe*—The Agency also invites applications for special proposals which focus on the impact of European integration on U.S.-Western Europe relations. Priority academic fields are economics, environmental studies, international relations, business management, and law. Partners in this special competition are limited to those from the European Community countries (Belgium, Denmark, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, and the United Kingdom). The competition is subject to regular program guidelines as specified throughout this announcement. Proposals may be submitted for two-way linkages (an American and a foreign institution) or for three-way projects including an American institution and two foreign universities in two different countries.

IV. Review Process

The University Affiliations program review process is conducted in three stages: technical, academic, and Agency. Proposals that are deemed technically ineligible will not be forwarded for further review by the academic committees or the Agency. Upon completion of the technical review, applicants will be notified in writing of the status of their proposals and a ten-day grace period will be granted to applicants whose proposals lack certain documentation. Proposals which are technically eligible will be forwarded for review to an outside panel of academic peers. Proposals that are recommended by the academic peer review panels will be further considered by the Agency. Application requirements and technical, academic, and Agency review criteria follow:

A. *Application Requirements:* Proposals must be submitted within deadline and conform to the selected countries and academic fields identified under the geographic area programs. The proposal package must include one original and twelve copies.Proposal must be presented as follows:

1. *A cover sheet* with names of both institutions, name of foreign country, project directors with their addresses and phone numbers, and academic field(s) of proposal.

2. *An abstract* of proposed project not-to-exceed two double-spaced pages.

3. *A narrative* not to exceed twenty double-spaced pages including descriptions of institutions and participating academic departments or schools; a detailed description of the proposed affiliation program including names and qualifications of designated project directors; a roster of program participants (with qualifications including academic background and language skills for both institutions) for the entire duration of the project; a statement of need for the proposed program; a detailed description of proposed activities including when, where, and how they will occur; anticipated benefits of the progam to participating institutions; and a plan for institutional evaluation of the project.

4. *A three-column budget* outlining specific expenditures and sources from which funds are anticipated. Detailed information concerning eligible and ineligible items and required budget format is included under a separate section entitled *Budget Notes.*

5. *Appendices* must include the following:

(a) Documentation of institutional support for the proposed linkage including signed letters of endorsement from the U.S. and foreign institutions' presidents, chancellors, or directors making specific reference to the 1991 University Affiliations program and committing their participating institution(s) to maintaining their exchange participants in full salary and benefits during the exchange. *A general letter of support or an agreement between the two institutions without reference to the maintenance of salaries and benefits will not fulfill this requirement.*

(b) academic resumes of potential participants for both institutions (not-to-exceed two double-spaced pages for each) clearly indicating level of language skills, overseas experience, knowledge of prospective partner country, relevant scholarly and non-scholarly travel, publications, and research activities.

(c) a list of on-going, active international linkages at both partner institutions.

B. *Budget Notes*—Requested grant amount should not exceed $70,000 for bilateral projects and $100,000 for trilateral projects (where indicated), covering eligible expenses of all institutions for a three-year period. A modest allowance for the purchase of educational materials (to be purchased in the United States and used and donated to the foreign institution) may be charged to the grant.

1. *Eligible budget items for USIA grant funds are:*

(a) international economy-class airfare for participants (travel must be on U.S. carriers where available);

(b) compensation of modest per-diem for expenses such as housing, food, and other maintenance items (not to exceed the rate authorized in the "Standard U.S. Government Travel Regulations" for travel in foreign countries and U.S. localities);

(c) allowance for educational materials for overseas use not to exceed $2,000 for bilateral projects and $3,500 for trilateral/regional projects.

2. *Ineligible budget items are:*

(a) Institutional overhead;

(b) Administrative expenses incurred in connection with the Affiliations program;

(c) Expenses for student exchanges;

(d) Travel and per diem for dependents;

(e) In-country domesic travel, except for projects involving multi-campus institutions and consortium of universities/colleges;

(f) Insurance coverage;

(g) Any costs for non-U.S. citizens or nationals from U.S. institutions, or citizens of other than the host country representing foreign universities.

C. *Required Budget Format*—All proposed expenditures should be individually listed (for the duration of the proposed project), using the format below. Each request for travel should specify round trip cost (economy class) and destination for each participant per fiscal year. Each maintenance request should specify locality (city), daily or monthly rate depending on stay, and duration of stay for each (not to exceed published Federal government rates). Direct and indirect costs, in-kind or cash contributions, absorbed by each institution should be included, along with regular salary and benefits, under the column of contributions for each partner.

	USIA	U.S. inst.	Foreign inst.
Year 1:			
International Travel	X	X	X
Maintenance Costs	X	X	X
Salaries and Benefits	X	X	X
Educational Materials	X	X	X
Other direct and indirect costs (waived).	X	X	X
Total _____			
Year 2:			
International Travel	X	X	X
Maintenance Costs	X	X	X
Salaries and Benefits	X	X	X
Educational Materials	X	X	X
Other direct and indirect costs (waived).	X	X	X
Total _____			
Year 3:			
International Travel	X	X	X
Maintenance Costs	X	X	X
Salaries and Benefits	X	X	X
Educational Materials	X	X	X
Other direct and indirect costs (waived).	X	X	X
Total	X	X	X

D. *Academic Review Criteria:* Proposals are reviewed by independent academic peer panels with geographic and discipline expertise which make recommendations to the Agency based on the following criteria:

1. Overall academic soundness of proposal as reflected by goals, the selection of relevant topics and activities, and implementation and evaluation plans. If the proposal requests support for an established, active linkage, evidence that the University Affiliations funding would allow for innovation in the exchange relationship;

2. Promise of the production of new skills/knowledge and advancement of scholarship in fields covered by the program;

3. Evidence that theme(s) of proposed project fits field(s) stated in the announcement;

4. Evidence of strong mutual benefits to the institutions involved in the exchanges;

5. Feasibility of the program plan as it relates to the stated goals and selected topics and activities.

6. Appropriateness of credentials/experience of participants to the goals of the proposed exchange plan (including linguistic proficiency, where required);

7. Appropriateness of length of exchange visits given project goals;

8. Evidence of strong institutional commitment by participating institutions;

9. Evidence of mutual advancement of cultural and political understanding of the countries or geographic areas represented in the partnership through development of individual and institutional ties;

10. Demonstration that the partnership is likely to continue after the expiration of the USIA grant.

E. *Agency Review Criteria.* USIA will consider for further review only those proposals recommended by academic review panels. Agency considerations will be based on:

1. Academic quality, reflected in academic review panels' comments and recommendations;

2. Feasibility of program plan;

3. Advancement of mutual cultural and political understanding between the countries or geographic areas represented in the partnership;

4. USIA overseas post assessments of need and feasibility;

5. Promise of long-term impact;

6. Cost-effectiveness.

Note: All proposals recommended for funding will be subject to Agency review for conformity to relevant and legal guidelines. Funding of any proposal is subject to the regular procedures, regulations and requirements for Bureau of Educational and Cultural Affairs grants, including review by USIA's Office of General Counsel and submission for approval to the J. William Fulbright Foreign Scholarship Board.

V. Deadline

Proposals must be received by USIA no later than 5 p.m. EST, January 11, 1991. Please send proposals to the following address: United States Information Agency University Affiliations Program, 301 4th Street SW room 349, Washington, DC 20547

VI. Notification

Successful applicants will be notified on or about the end of June 1991. Funded proposals will be subject to periodic reporting and evaluation requirements.

VII. Inquiries

For questions regarding information for specific geographic areas please contact:

Africa. Dr. Ellen Berelson (E/AEA), Academic Exchanges Division, African Branch, (202) 619–5355

American Republics: Ms. Paula Durbin (E/AEL), Academic Exchanges Division, American Republics Branch, (202) 619–5365

East Asia and the Pacific: Dr. Mikel Edwards (E/AEF), Academic Exchanges Branch, East Asia and the Pacific Branch, (202) 619–5402

Europe: Mr. Merrill Miller (E/AEE), Academic Exchanges Division, Europe Branch, (202) 619–4420

Near East/South Asia. Mr. Michael Graham (E/AEN), Academic Exchanges Division, Near East/South Asia Branch, (202) 619–6864

General Inquiries: Ms. Aleta F Wenger Coordinator, University Affiliations Program, Office of Academic Programs, Bureau of Educational and Cultural Affairs, (202) 619–5289

Dated: August 6, 1990.

William P. Glade,

Associate Director.

[FR Doc. 90–19027 Filed 8–13–90; 8:45 am]

BILLING CODE 8230–01–M

DEPARTMENT OF VETERANS AFFAIRS

Geriatrics and Gerontology Advisory Committee; Meeting

The Department of Veterans Affairs gives notice under Public Law 92–463 that a meeting of the Geriatrics and Gerontology Advisory Committee (GGAC) will be held September 17–18, 1990 at the Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 in the Omar Bradley Conference Room. The purpose of the Geriatrics and Gerontology Advisory Committee is to advise the Secretary of Veterans Affairs and the

Chief Medical Director relative to the care and treatment of the aging veterans, and to evaluate the Geriatric Research, Education and Clinical Centers. The meeting will convene at 8:30 a.m. and adjourn at 5 p.m. on September 17 and will reconvene at 9 a.m. on September 18 and adjourn at 12 noon. The meeting is open to the public up to the seating capacity of the room.

For those wishing to attend contact Jacqueline Holmes, Program Assistant, Office of Assistant Chief Medical Director for Geriatrics and Extended Care (phone 202/233–5983) prior to September 12, 1990.

The purpose of this meeting is to discuss the research activities of the Department of Veterans Affairs in the field of aging and possible legislative proposals to broaden the eligibility of aging veterans for continual quality care.

Dated: August 9, 1990.

By direction of the Secretary:

Laurence M. Christman,

Executive Assistant.

[FR Doc. 90–19023 Filed 8–13–90; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 157
Tuesday, August 14, 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).

BLACKSTONE RIVER VALLEY NATIONAL HERITAGE CORRIDOR

NOTICE OF MEETING

Notice is hereby given in accordance with Section 552b of Title 5, United States Code, that a meeting of the Blackstone River Valley National Heritage Corridor Commission will be held on Thursday, September 6, 1990.

The Commission was established pursuant to Public Law 99-647. The purpose of the Commission is to assist federal, state and local authorities in the development and implementation of an integrated resource management plan for those lands and waters within the resource management plan for those lands and waters within the Corridor.

The meeting will convene at 7:00 p.m. at Harris Hall, Woonsocket City Hall, 3rd Floor, 169 Main St., Woonsocket, Rhode Island for the following reasons:

1. Report of the Chairman
2. Report of the Executive Subcommittee for Budget and Administration
3. Report of the Ad Hoc Nominating Committee
4. Election of Officers
5. Report on Woonsocket Heritage Park Status and Activities
6. Public Comments

It is anticipated that about twenty people will be able to attend the session in addition to the Commission members.

Interested persons may make oral or written presentations to the Commission or file written statements. Such requests should be made prior to the meeting to: James Pepper, Executive Director, Blackstone River Valley National Heritage Corridor Commission, P.O. Box 34, Uxbridge, MA 01569. Telephone (508) 278-9400 or (508) 278-5124.

Further information concerning this meeting may be obtained from James Pepper, Executive Director of the Commission at the address below.

Shirley Cleaves,

Executive Director Acting, Blackstone River Valley National Heritage Corridor Commission.

[FR Doc. 90-19163 Filed 8-10-90; 11:05 am]

BILLING CODE 4310-70-M

COMMISSION ON CIVIL RIGHTS

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 55, page 31979, August 6, 1990.

CHANGES IN THE MEETING: Cancelled.

CONTACT PERSON FOR FURTHER INFORMATION: Barbara Brooks, Press and Communications Division, (202) 376-8312.

Emma Monroig,

Solicitor.

[FR Doc. 90-19198 Filed 8-10-90; 2:01 pm]

BILLING CODE 6335-01-M

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Special Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming special meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The special meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on August 15, 1990, from 10:00 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Curtis M. Anderson, Secretary of the Farm Credit Administration Board, (703) 883-4003, TDD (703) 883-4444.

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts of this meeting will be closed to the public. The matters to be considered at the meeting are:

Open Session

1. Approval of FCA Board Meeting Minutes.

2. Consent Calendar: Approval of Joint Management Agreement Between the Initial Board of Directors of the Proposed FCS of NE Colorado, FLBA, and the Board of Directors of the Sterling PCA.

*Closed Session**

3. Competition Study.

4. Enforcement Actions.

5. Board Briefings.

*Session closed to the public—exempt pursuant to 5 U.S.C. 552b(c)(4), (8), (9), and (10).

Dated: August 8, 1990.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 90-19209 Filed 8-10-90; 2:02 am]

BILLING CODE 6705-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:51 p.m. on Thursday, August 9, 1990, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider matters relating to the probable failure of certain insured depository institutions.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director T. Timothy Ryan, Jr. (Director of the Office of Thrift Supervision), concurred in by Director Robert L. Clarke (Comptroller of the Currency), Vice Chairperson Andrew C. Hove, Jr., and Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: August 10, 1990.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 90-19210 Filed 8-10-90; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL RESERVE SYSTEM (BOARD OF GOVERNORS)

TIME AND DATE: 12:00 noon, Monday, August 20, 1990.

PLACE: MARRINER S. ECCLES FEDERAL RESERVE BOARD BUILDING, C STREET

ENTRANCE BETWEEN 20TH AND 21ST STREETS, N.W., WASHINGTON, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: August 10, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90–19224 Filed 8–10–90; 2:56 pm]

BILLING CODE 6210–01–M

INTERNATIONAL TRADE COMMISSION

[USITC SE–90–18]

TIME AND DATE: Tuesday, August 21, 1990 at 10:30 a.m.

PLACE: Room 101, 500 E Street, S.W., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.

2. Minutes.

3. Ratification.

4. Petitions and Complaints: Certain Internal Mixing Devices and Components Thereof (D/N 1577).

5. Inv. No. 731–TA–465–468 (P) (Certain Sodium Sulfur Chemical Compounds from the Federal Republic of Germany, the People's Republic of China, Turkey and the United Kingdom)—briefing and vote.

6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 252–1000.

Kenneth Mason,

Secretary.

August 7, 1990.

[FR Doc. 90–19184 Filed 8–10–90; 12:09 pm]

BILLING CODE 7020–02–M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of August 13, 20, 27, and September 3, 1990.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of August 13

Thursday, August 16

8:30 a.m.—Collegial Discussion of Items of Commissioner Interest (Public Meeting)

9:30 a.m.—Affirmative/Discussion and Vote (Public Meeting)

a. Final 1990 Waste Confidence Decision and Amendments to 10 CFR part 51

b. Final Rule on Informal Procedures for Reactor Operator and Senior Reactor Operator Licensing Ajudications (Tentative)

Week of August 27 (Tentative)

There are no meetings scheduled for the week of August 20.

Week of August 30 (Tentative)

Thursday, August 30

11:30 a.m.—Affirmative/Discussion and Vote (Public Meeting) (if needed)

Week of September 3 (Tentative)

There are no meetings scheduled for the week of September 3.

Note.—Affirmative sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To verify the status of meetings call (Recording)—(301) 492–0292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 492–1661.

William M. Hill, Jr.,

Office of the Secretary

[FR Doc. 90–19221 Filed 8–10–90; 2:55 pm]

BILLING CODE 7590–01–M

Corrections

Federal Register
Vol. 55, No. 157
Tuesday, August 14, 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 1005

[Docket Nos. AO-388-A1; AO-388-A1-RO1; DA-88-123]

Milk in the Carolina Marketing Area; Order Regulating the Handling of Milk

Correction

In rule document 90-17803 beginning on page 31351 in the issue of Thursday, August 2, 1990, the CFR line should have appeared as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP87-62-006]

Pacific Gas Transmission Co.; Compliance Filing

Correction

In notice document 90-18363 beginning on page 32130, in the third column, in the issue of Tuesday, August 7, 1990, the docket number should read as set forth above.

BILLING CODE 1505-01-D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 22

[CC Docket No. 88-135; FCC 90-255]

Height and Power Increases in the Public Mobile Service

Correction

In rule document 90-17390 beginning on page 30461 in the issue of Thursday, July 26, 1990, make the following correction:

§ 22.503 [Corrected]

On page 30462, in the second column, after the table and its footnotes insert the following:

"4. Section 22.503 is amended by revising paragraph (d) to read as follows:

§ 22.503 Geographic separation of co-channel stations."

BILLING CODE 1505-01-D

federal register

Tuesday
August 14, 1990

Part II

Department of Defense

48 CFR Parts 202 et al.

Department of Defense Acquisition Regulations; Miscellaneous Amendments; Proposed Rule

DEPARTMENT OF DEFENSE

48 CFR Parts 202, 203, 207, 219, 220, 224, 226, 229, 231, 233, 243, 248, 250, 251, 252, and Appendix Q

Department of Defense Acquisition Regulations; Miscellaneous Amendments

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: The Defense Federal Acquisition Regulation Supplement (DFARS) is being rewritten in its entirety as a result of a Defense Management Review initiative. The rewrite is designed to: eliminate text and clauses that are unnecessary (e.g., duplicate FAR or other directives, add no value, etc.); eliminate or modify, where possible, thresholds, certifications, approval levels, and other regulatory burdens on contracting officers and contractors; and rephrase remaining text and clauses in plain English. The rewrite will be published for public comment in four increments. This is the first increment.

DATES: Comments must be submitted on or before October 15, 1990.

ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulatory Council, ATTN: Ms. Lucile Hughes, DAR Council, ODASD(P)/DARS, c/o OASD(P&L)(M&RS), room 3D139, Pentagon, Washington, DC 20301–3062. Please cite DAR Case 90–743 in all correspondence concerning this proposed rule.

FOR FURTHER INFORMATION CONTACT: 202–697–7266. Valorie Lee, for parts 202, 203, 248; Barbara Young, for part 207; Alyce Sullivan, for parts 219, 220, 224, 226, 229, Appendix Q; Eric Mens, for parts 231, 233, 250, 251; and Charles Lloyd, for part 243.

SUPPLEMENTARY INFORMATION:

A. Background

The Secretary of Defense's July 1989 Defense Management Report to the President concluded that much of the stifling burden of DoD regulatory guidance, including the Defense Federal Acquisition Regulation Supplement (DFARS), is self-imposed. To correct this situation, the DoD formed a Regulatory Relief Task Force to review DFARS and lower level supplements and to recommend revisions. As a result, the Defense Acquisition Regulatory System, under the direction of the Deputy Assistant Secretary of Defense for Procurement, has undertaken the complete rewrite of DFARS. The rewrite is designed to: Eliminate text and clauses that are unnecessary (e.g., duplicate FAR or other directives, add no value, etc.); eliminate or modify, where possible, thresholds, certifications, approval levels, and other regulatory burdens on contracting officers and contractors; and rephrase remaining text and clauses in plain English.

The rewritten DFARS is being published for public comment in four monthly increments. This publication of DFARS parts 202, 203, 207, 219, 220, 224, 226, 229, 231, 233, 243, 248, 250, 251, and their attendant clauses in part 252 is the first increment. All public comments received in response to this notice will be considered in developing the final rule, which is planned for publication in February 1991. Parties responding to this notice are requested to separate their comments by DFARS part.

The rewritten DFARS is addressed to the contracting officer. Every attempt has been made to remove extraneous material which, though informative, was guidance addressed to others in the acquisition process, e.g., program managers, requirements personnel, small business specialists, etc. Text which was unnecessary or redundant has been removed. Some text has been moved to the FAR and some additional text in this proposed rule may be moved to the FAR before the rule is finalized. Text has been rearranged, and in some instances, moved to other parts, to more closely align the DFARS text with the FAR text it implements or supplements. The rewritten DFARS includes some policy and procedural changes. These are identified in the following discussion of revisions by part. Unless specifically identified as a change, the rewritten version of the part is not intended as a change in current policy or procedure.

Part 202, Definitions of Words and Terms. The definitions of "Department" and "Head of the Agency" have been deleted. The remaining definitions have been revised and updated. A definition of "Contracting officer's representative" has been added.

Part 203, Improper Business Practices and Personal Conflicts of Interest. Several definitions in the text have been moved to clauses. Some definitions have been deleted from the clauses. The clause at 252.203–7000, Advertising and Coupon Redemption for Military Resale Activities, has been deleted. This clause was considered an inappropriate vehicle for enforcement of the prohibition against implying Government endorsement of a product. The clause at 252.203–7002, Statutory Compensation Prohibitions and Reporting Requirements Relating to Certain Former Department of Defense Employees, has been retitled and renumbered as 252.203–7000. The clause at 252.203–7003, Display of DoD Hotline Poster, has been renumbered as 252.203–7002.

Part 207, Acquisition Planning. The thresholds at 207.103(c) for requiring written acquisition plans have been increased. The requirement at 207.304 for the contracting officer to work in conjunction with the functional activity in preparation of performance work statements has been deleted, leaving this to the discretion of the contracting officer.

Part 219, Small Business and Small Disadvantaged Business Concerns. This part has been substantively revised—by clarifying responsibilities; by eliminating conflicting guidance; by tying the small business specialist's responsibilities to specific functions; and by removing impediments to contracting with small businesses. Specifically, (1) The DoD order of precedence for set-asides (DFARS 219.504) has been reconciled with the FAR order of precedence. (2) The requirement, associated with small disadvantaged business set-asides (DFARS 219.502–72(c)), for specific analysis of offers received on prior acquisitions has been eliminated. (3) The contracting officer has been given approval authority to proceed in face of Secretarial appeal (DFARS 219.505(f)). (4) File documentation requirements associated with premium payments (DFARS 219.202–5(b)) and resolution of disagreements (DFARS 219.505(a)(2)) have been eliminated. (5) Mandatory coordination requirements have been modified/eliminated: processing SBA requests (DFARS 219.402(b)); withdrawal of class set-asides (DFARS 219.503(d)); withdrawal of other set-asides (DFARS 219.506(b)); and determination that there are no small disadvantaged business manufacturers (DFARS 219.7002). (6) Both the small business specialist's and the contracting officer's responsibilities for the review of acquisitions have been clarified. Review of all acquisitions over $25,000 must be documented on a new DD Form, which is to replace the individual forms currently in use by the military departments and agencies. (7) This proposed rule also includes those revisions published in the **Federal Register** April 17, 1990 (55 FR 14329) for public comment, i.e., deletion of combined small business-labor surplus area set-asides. (8) The clauses have been rewritten/modified/deleted/combined as follows:

252.219–7000 Includes a new definition of "minority institution" (see part 226 explanation)
252.219–7001 Deleted
252.219–7002 Deleted
252.219–7003 Deleted
252.219–7004 Combined with the proposed 252.219–7004
252.219–7005 Retitled and renumbered as 252.219–7001
252.219–7006 Retitled and renumbered as 252.219–7002
252.219–7007 Retitled and renumbered as 252.219–7003
252.219–7009 Retitled and renumbered as 252.219–7005
252.219–7010 Renumbered as 252.219–7004
252.219–7011 Combined with the proposed 252.219–7004
252.219–7012 Deleted—moved to FAR
252.219–7013 Deleted—moved to FAR
252.219–7014 Deleted—moved to FAR
252.219–7015 Renumbered as 252.219–7006
252.219–7016 Renumbered as 252.219–7007

Part 220, Labor Surplus Area Concerns. The deletion of part 220 was published in the **Federal Register** as a proposed rule for public comment on March 22, 1990 (55 FR 10637), as amended April 6, 1990 (55 FR 12870). The deletion of the clauses at 252.220–7000 and 252.220–7001 was published April 6, 1990 (55 FR 12870).

Part 224, Protection of Privacy and Freedom of Information. No changes in policy or procedure. This part is exactly the same as the final rule published in Defense Acquisition Circular 88–15, which appeared as a final rule in the **Federal Register** on July 24, 1990 (55 FR 30154). That rule deleted DFARS Appendix L and Appendix P.

Part 226, Other Socioeconomic Programs. The definitions of "historically black college and university" and "minority institution" have been moved from DFARS subpart 226.70 to the clauses at 252.226–7000 and 252.226–7001. The definition of "minority institution" has been revised to conform to the definition prescribed by section 806 of Public Law 100–180.

Part 229, Taxes. The requirement in DFARS 229.303(a)(2), for referral to the Under Secretary of Defense (R&E) of cases designating a contractor an agent of the Government for purposes of immunity from State or local taxes, is deleted. The clause at 252.229–7000, Fixed-Price, Into-Plane, Fuel Contracts at Overseas Locations, has been deleted as no longer necessary or useful. Appendix Q, which is a reprint of DoDD 5100.64, Foreign Tax Relief Program, has been deleted.

Part 231, Contract Cost Principles and Procedures. The clauses at 252.231–7001, Supplemental Cost Principles, and 252.231–7002, Penalties for Unallowable Costs, have been combined into one clause.

Part 233, Protests, Disputes, and Appeals. The reference to section 813 of Public Law 95–485 has been removed from DFARS subpart 233.70 but the certification requirement in subpart 233.70 and the contract clause at 252.233–7000, Certification of Requests for Adjustment or Relief Exceeding $100,000, have been retained.

Part 243, Contract Modifications. Text has been moved from DFARS part 243 to other parts: 243.105, Availability of funds, moved to DFARS 232.7; 243.204(S–73), Modifications to letter contracts, moved to DFARS 204.101(a); 243.7001, Adjustments to prices under shipbuilding contracts, moved to DFARS 233.210.

Part 248, Value Engineering. The requirement in DFARS 248.201(a), for inclusion of a value engineering incentive clause in contracts of $25,000 or more for spare parts and repair kits, has been deleted. A clause has been added at DFARS 252.248–7000, Preparation of Value Engineering Change Proposals, for use in specifying use of the format in MIL STD 480 or 481.

Part 250, Extraordinary Contractual Actions. No changes in policy or procedure.

Part 251, Use of Government Sources by Contractors. No changes in policy or procedure.

Part 252, Solicitation Provisions and Contract Clauses. Revisions in provisions/clauses are identified in the discussion of the part which prescribes use of the provision or clause.

B. Regulatory Flexibility Act

Parts 202, 203, 207, 224, 229, 231, 233, 243, 248, 250, 251 and the provisions/clauses in part 252 prescribed by these parts. These proposed rules do not constitute significant revisions within the meaning of Public Law 98–577; therefore, the Regulatory Flexibility Act does not apply.

Parts 219 and the provisions/clauses in part 252 prescribed by part 219. These proposed rules are not expected to have a significant economic impact on a substantial number of small entities because the basic policies remain unchanged and with few exceptions, the procedural changes are internal agency operating procedures. An Initial Regulatory Flexibility Analysis has not been performed. Comments are solicited from small business and other interested parties and will be considered in development of the final rule.

Part 220 and the clauses in part 252 prescribed by part 220. The proposed deletion of part 220 and the clauses in 252.220–7000 and 252.220–7001 was published in the **Federal Register** for public comment on March 22, 1990 (55 FR 10637), as amended April 6, 1990 (55 FR 12870). An Initial Regulatory Flexibility Analysis was not performed because we were unable to quantify the economic impact on small entities.

Part 226 and the provision and clause in part 252 prescribed by part 226. These proposed rules are not expected to have a significant economic impact on a substantial number of small entities because, with one exception, the basic policies and procedures are unchanged. The change in the definition of "minority institution" will affect approximately 600 educational institutions but is not expected to have an impact on small businesses. An Initial Regulatory Flexibility Analysis has not been performed but comments received will be considered in development of the final rule.

C. Paperwork Reduction Act

Parts 202, 203, 207, 224, 226, 231, 233, 243, 248, 250, 251, and the provisions/clauses in part 252 prescribed by these parts. These proposed rules do not change or impose any record keeping or information collection requirements beyond that for which OMB approval has previously been obtained.

Part 219 and the provisions/clauses in part 252 prescribed by part 219. This proposed rule does not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501, et seq. The rule results in a reduction of 402 hours based on the deletion of the combined small business-labor surplus area setasides (DFARS 219.502–70 and the clauses at 252.219–7001 and 252.219–7002). This requirement is currently approved under OMB control number 0704–0218. A request for paperwork clearance has been prepared based on the deletion of the requirement associated with combined small business-labor surplus area set-asides.

Part 220 and the clauses in part 252 prescribed by part 220. This proposed rule does not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501, et seq. The rule results in a reduction of 201 hours. This requirement is currently approved under OMB control number 0704–0260. A request for paperwork clearance has been prepared.

Part 229 and the clause in 252.229–7000. This proposed rule does not contain information collection requirements which require approval of OMB under 44 U.S.C. 3501, et seq. Record keeping/reporting requirements imposed by the clause at DFARS 252.229–7000 are currently approved under OMB control number 0704–0249.

Deletion of this clause results in a reduction of 372 hours. A request for paperwork clearance has been prepared.

List of Subjects in 48 CFR Parts 202, 203, 207, 219, 220, 224, 226, 229, 231, 233, 243, 248, 250, 251, and 252

Government procurement.

Claudia L. Naugle,

Executive Editor, Defense Acquisition Regulatory Council.

Adoption of Amendments

Therefore, it is proposed that 48 CFR parts 202, 203, 207, 219, 220, 224, 226, 229, 231, 233, 243, 248, 250, 251, and 252 be amended as follows:

1. Part 202 is revised to read as follows:

PART 202—DEFINITIONS OF WORDS AND TERMS

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, FAR subpart 1.3.

Subpart 202.1—Definitions

202.101 Definitions.

Contracting activity. For the DoD, the designated elements are as follows:

Office of the Secretary of Defense

Strategic Defense Initiative Organization-Director
Washington Headquarters Service-Director, Real Estate and Facilities Directorate

Army

Contract Support Agency
Office of the Deputy Chief of Staff for Procurement, Headquarters, U.S. Army Materiel Command
Armament Munitions and Chemical Command
Missile Command
Laboratory Command
Communications-Electronics Command
Troop Support Agency
Troop Support Command
Tank-Automotive Command
Aviation Systems Command
Training and Doctrine Command
Test and Evaluation Command
Forces Command
Health Services Command
Military District of Washington
U.S. Army, Europe
National Guard Bureau
Corps of Engineers
Information Systems Command
Medical Research and Development Command
Western Command
Military Traffic Management Command
Strategic Defense Command
Eighth U.S. Army
Depot Systems Command
Intelligence and Security Command
U.S. Army, South
Defense Supply Service-Washington, Director

Navy

Deputy for Acquisition Policy, Integrity and Accountability, Office of the Assistant Secretary of the Navy (Research, Development, and Acquisition)
Director, Procurement Policy
Naval Air Systems Command
Space and Naval Warfare Systems Command
Naval Facilities Engineering Command
Naval Sea Systems Command
Naval Supply Systems Command
Ships Parts Control Center
Navy Aviation Supply Office
Office of Naval Research
Military Sealift Command
Strategic Systems Programs
Headquarters, U.S. Marine Corps
U.S. Marine Corps Research, Development, and Acquisition Command
Installations and Logistics, Headquarters, U.S. Marine Corps

Air Force

Headquarters, Directorate of Contracting and Manufacturing Policy
Air Force Logistics Command
Air Force Systems Command
Strategic Air Command
Tactical Air Command
Air Force Communications Command
Military Airlift Command
Air Training Command
Pacific Air Forces
United States Air Forces in Europe
Alaskan Air Command
Space Command
Electronic Security Command

Defense Logistics Agency

Office of the Executive Director, Contract Management
Office of the Executive Director, Contracting
Defense Supply Centers
Defense Personnel Support Center

Defense Communications Agency

Headquarters
Defense Commercial Communications Office

Defense Mapping Agency

Headquarters, Logistics Office

Defense Nuclear Agency

Headquarters, Defense Nuclear Agency

National Security Agency

Headquarters, National Security Agency

Contracting officer's representative means an individual designated and authorized in writing by the contracting officer to perform specific technical or administrative functions.

Department of Defense (DoD) means the Office of the Secretary of Defense, the Military Departments, the Defense Agencies, and the Strategic Defense Initiative Organization.

Senior procurement executive is now titled *Senior acquisition executive.* For the DoD, these are:

Office of the Secretary of Defense—Under Secretary of Defense (Acquisition)
Army—Assistant Secretary of the Army (Research, Development, and Acquisition)
Navy—The Assistant Secretary of the Navy (Research, Development, and Acquisition)
Air Force—The Assistant Secretary of the Air Force (Acquisition)
Defense Logistics Agency—The Deputy Director (Acquisition Management)
Defense Communications Agency—The Deputy Director, Acquisition Management
Defense Mapping Agency—The Director of Acquisition
Defense Nuclear Agency—The Director, Acquisition Management
National Security Agency—The Deputy Director, National Security Agency

2. Part 203 is revised to read as follows:

PART 203—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

Subpart 203.1—Safeguards

Sec.

203.103 Independent pricing.
203.103–2 Evaluating the certification.
203.104 Procurement integrity.
203.104–1 General.
203.104–4 Definitions.
203.104–5 Disclosure of proprietary and source selection information.
203.104–9 Certification requirements.
203.170 Statutory prohibitions on compensation to former DoD employees.
203.170–1 Policy.
203.170–2 Reporting requirements.
203.170–3 Penalties.
203.170–4 Contract clause.

Subpart 203.2—Contractor Gratuities to Government Personnel

203.203 Reporting suspected violations of the Gratuities clause.

Subpart 203.3—Reports of Suspected Antitrust Violations

203.301 General.

Subpart 203.4—Contingent Fees

203.409 Misrepresentations or violations of the covenant against contingent fees.

Subpart 203.5—Other Improper Business Practices

203.502 Subcontractor kickbacks.
203.502–2 General.
203.570 Employment prohibitions on persons convicted of fraud or other DoD contract-related felonies.
203.570–1 Scope.
203.570–2 Policy.
203.570–3 Waiver.
203.570–4 Reporting.
203.570–5 Contract clause.

Subpart 203.70—Contractor Standards of Conduct

203.7000 Policy.
203.7001 Procedures.
203.7002 Contract clause.

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, FAR subpart 1.3.

Subpart 203.1—Safeguards

203.103 Independent pricing.

203.103-2 Evaluating the certification.

(b)(3) The contracting officer also shall report the matter in accordance with 209.472.

203.104 Procurement integrity.

203.104-1 General.

Military departments and agencies shall submit all regulations that supplement or implement 203.104 or FAR 3.104, except for internal agency operating procedures, to the Deputy Assistant Secretary of Defense (Procurement), for approval by the Under Secretary of Defense (Acquisition) or designee.

203.104-4 Definitions.

(f) For DoD, the agency regulation is DoD Directive 5500.7, Standards of Conduct.

203.104-5 Disclosure of proprietary and source selection information.

(e)(4) For purposes of FAR 3.104-5(e)(4) only, DoD follows the notification procedures in FAR 27.404(h). However, the first sentence in FAR 27.404(h) does not apply to DoD.

203.104-9 Certification requirements.

(b)(2)(viii) For Basic Ordering Agreements (BOAs), prior to issuance of each order expected to exceed $100,000. For BOA orders, identification of the beginning of the conduct of a procurement (see FAR 3.104-7) applies individually to each order.

203.170 Statutory prohibitions on compensation to former DoD employees.

203.170-1 Policy.

10 U.S.C. 2397b prohibits DoD officials who, while serving with the DoD, performed acquisition related functions in connection with a major defense contractor, from accepting compensation from that contractor for a period of two years after the officials have left service with the DoD. The DoD implementation of the statute is in DoD Directive 5500.7, Standards of Conduct.

203.170-2 Reporting requirements.

Paragraph (c) of the clause at 252.203-7000, Statutory Prohibitions on Compensation to Former Department of Defense Employees, requires major defense contractors to report on the employment of certain former DoD employees. (See clause at 252.203-7000 for definition of terms.)

203.170-3 Penalties.

(a) Contractors are subject to the following penalties for knowing failure to comply with the statute, the contractual prohibition, or the reporting requirements—

(1) Civil fines up to $500,000 for knowingly offering or providing compensation to another person with knowledge that acceptance of that compensation is or would be in violation of the statute.

(2) Liquidated damages in the amount of either $100,000 or three times the amount of compensation paid by the contractor to the former DoD official, whichever is greater, for failure to comply with the contract prohibition.

(3) An administrative penalty not to exceed $10,000 for failure to report as required by the statute and as implemented in the clause at 252.203-7000.

(b) Liquidated damages will be assessed in accordance with agency procedures in coordination with the Designated Agency Ethics Official.

203.170-4 Contract clause.

Use the clause at 252.203-7000, Statutory Prohibitions on Compensation to Former Department of Defense Employees, in all solicitations and contracts expected to exceed $100,000.

Subpart 203.2—Contractor Gratuities to Government Personnel

203.203 Reporting suspected violations of the Gratuities clause.

Report suspected violations of the Gratuities clause in accordance with 209.472.

Subpart 203.3—Reports of Suspected Antitrust Violations

203.301 General.

(b) Report suspected antitrust violations in accordance with 209.472.

Subpart 203.4—Contingent Fees

203.409 Misrepresentations or violations of the covenant against contingent fees.

(b) Report suspected fraud or other criminal conduct in accordance with 209.472.

Subpart 203.5—Other Improper Business Practices

203.502 Subcontractor kickbacks.

Report suspected violations of the Anti-Kickback Act in accordance with 209.472.

203.502-2 General.

(h) The DoD Inspector General has designated Special Agents of the following investigative organizations as representatives for conducting inspections and audits under the Anti-Kickback Act of 1986:

(i) U.S. Army Criminal Investigation Command.

(ii) Naval Investigative Service.

(iii) Air Force Office of Special Investigations.

(iv) Defense Cnminal Investigative Service.

203.570 Employment prohibitions on persons convicted of fraud or other DoD contract-related felonies.

203.570-1 Scope.

This subpart prescribes policies and procedures to implement 10 U.S.C. 2408.

203.570-2 Policy.

(a) Contractors shall not knowingly allow a person, convicted after September 29, 1988, of fraud or any other felony arising out of a contract with the DoD, to serve—

(1) In a management or supervisory capacity on any DoD contract or subcontract; or,

(2) On its board of directors; or

(3) As a consultant, agent, or representative.

(b) The period covered by the prohibition in paragraph (a) of this subsection is for five years from the date of conviction.

203.570-3 Waiver.

(a) The contracting officer shall—

(1) Review any request for waiver; and

(2) Deny the request if the contracting officer decides the waiver is not required in the interests of national security; or

(3) Forward the request to the head of the agency or designee if the contracting officer decides the waiver may be in the interest of national security.

(b) The head of the agency or designee shall report all waivers granted, and the reasons for granting the waiver, to the Under Secretary of Defense (Acquisition), who will forward the report to Congress as required by 10 U.S.C. 2408(a)(3).

203.570-4 Reporting.

When a Defense contractor is found in violation of the prohibition in 203.572-2, prepare a report in accordance with agency procedures (see DoD Directive 7050.5).

203.570-5 Contract clause.

Use the clause at 252.203-7001, Special Prohibition on Employment, in all solicitations and contracts, except those which use the small purchase procedures of FAR part 13.

Subpart 203.70—Contractor Standards of Conduct

203.7000 Policy.

Government contractors must conduct themselves with the highest degree of integrity and honesty. Contractors should have standards of conduct and internal control systems that—

(1) Are suitable to the size of the company and the extent of their involvement in Government contracting,

(2) Promote such standards,

(3) Facilitate timely discovery and disclosure of improper conduct in connection with Government contracts, and

(4) Ensure corrective measures are promptly instituted and carried out.

203.7001 Procedures.

(a) A contractor's system of management controls should provide for—

(1) A written code of business ethics and conduct and an ethics training program for all employees;

(2) Periodic reviews of company business practices, procedures, policies, and internal controls for compliance with standards of conduct and the special requirements of Government contracting;

(3) A mechanism, such as a hotline, by which employees may report suspected instances of improper conduct, and instructions that encourage employees to make such reports;

(4) Internal and/or external audits, as appropriate;

(5) Disciplinary action for improper conduct;

(6) Timely reporting to appropriate Government officials of any suspected or possible violation of law in connection with Government contracts or any other irregularities in connection with such contracts; and

(7) Full cooperation with any Government agencies responsible for either investigation or corrective actions.

(b) Contractors who are awarded a DoD contract of $5 million or more must display DoD Hotline Posters prepared by the DoD Office of the Inspector General unless—

(1) The contract will be performed in a foreign country; or

(2) The contractor has established an internal reporting mechanism and program, as described in paragraph (a) of this section.

203.7002 Contract clause.

Use the clause at 252.203-7002, Display of DoD Hotline Poster, in solicitations and contracts expected to exceed $5 million, except when performance will take place in a foreign country.

3. Part 207 is revised to read as follows:

PART 207—ACQUISITION PLANNING

Subpart 207.1—Acquisition Plans

Sec.

207.103 Agency-head responsibilities.
207.105 Contents of written acquisition plans.
207.106 Additional requirements for major systems.

Subpart 207.3—Contractor Versus Government Performance

207.302 General.

Subpart 207.4—Equipment Lease or Purchase

207.401 Acquisition considerations.

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, FAR subpart 1.3.

Subpart 207.1—Acquisition Plans

207.103 Agency-head responsibilities.

(c)(i) Military departments and agencies shall prepare written acquisition plans for—

(A) Acquisitions for development, as defined in FAR 35.001, when total contract cost is estimated at $5 million or more; and

(B) Acquisitions for production or services when contract cost is estimated at $30 million for all years or $15 million for any fiscal year.

(C) Any other acquisition considered appropriate by the department or agency.

(ii) Written plans are not required in acquisitions for a final buy out or one-time buy. The terms "final buy out" and "one-time buy" refer to a single contract which covers all known present and future requirements. This exception does not apply to a multiyear contract or a contract with options or phases.

(d) Prepare written acquisition plans meeting the criteria and thresholds of paragraphs (c)(i) (A) and (B) of this section on a system basis. Other acquisition plans may be written on either a system or individual contract basis.

(f) The program manager, or other official responsible for the program, has overall responsibility for acquisition planning.

(h)(i) Apply design-to-cost principles—

(A) In all acquisitions for Major and Non-Major Defense Acquisition Programs (DoDD 5000.1), unless exempted by the Secretary of Defense, and

(B) To the acquisition of systems, subsystems, and components below the thresholds for major defense systems, to the extent prescribed in DoD Directive 4245.3, Design to Cost.

(ii) Consider life-cycle-cost in all acquisitions of systems and equipment.

207.105 Contents of bitten acquisition plans.

For acquisitions covered by 207.103(c)(i) (A) and (B), correlate the plan to the DoD Six Year Defense Program, applicable budget submissions, and the decision coordinating paper/acquisition decision memorandum, as appropriate.

(a) *Acquisition Background and Objectives.* Also include—

(i) Applicability of a decision coordinating paper (DCP), acquisition decision memorandum, Defense Acquisition Board (DAB), and/or internal service reviews. Describe the options in the DCP/acquisition decision memorandum and delineate which option the acquisition plan supports.

(ii) The date approval for operational use has been or will be obtained. If waivers are requested, describe the need for the waivers.

(iii) A milestone chart depicting the acquisition objectives.

(iv) Milestones for updating the acquisition plan. Indicate when the plan will be updated. Program managers should schedule updates to coincide with DAB reviews and the transition from one phase to another (full-scale development to production).

(8) *Acquisition Streamlining.* DoDD 5000.43 contains policy direction on acquisition streamlining. See MIL-HDBK 248 for guidance on streamlining performance requirements, the technical package, and the contract strategy.

(b) *Plan of Action.*

(2) *Competition.* See FAR 6.303-2 for the information required to be included in the acquisition plan if the plan is to be used to support a justification and approval or a determination and findings under FAR part 6.

(5) *Budgeting and Funding.* Include specific references to budget line items and program elements, where applicable, estimated production unit cost, and the total cost for remaining production.

(6) *Product Descriptions.* For development acquisitions, describe the market research efforts planned or undertaken to identify nondevelopmental items, as defined in 210.001, that could satisfy the acquisition objectives.

(12) *Logistics Considerations.*

(i) Describe the extent of integrated logistics support planning to date, including references to approved plans.

(ii) Discuss the mission profile, reliability and maintainability (R&M) program plan, R&M predictions, redundancy, qualified parts lists, parts and material qualification, R&M requirements imposed on vendors, failure analysis, corrective action and feedback, and R&M design reviews and trade-off studies.

(iv) See DoDD 4120.3 for procedures on standardization. See DoDI 4120.19 for procedures on the DoD Parts Control Program, and MIL-STD-965, Parts Control Program, for procedures on the Standardized Military Drawing Program.

(12)(S-70) Describe the extent of Computer-Aided Acquisition and Logistics Support (CALS) implementation (see MIL-STD- 1840A).

(17) *Other Considerations.*

(A) Industrial Preparedness (IP). 10 U.S.C. 2502(a)(1) requires the military department or defense agency to conduct for each major defense acquisition program an analysis of the capabilities of the defense industrial base to develop, maintain, and support the program (see DoDD 4005.1).

(1) Provide the program's IP strategy that assesses the capability of the U.S. industrial base to achieve identified surge and mobilization goals. If no IP strategy has been developed, provide supporting rationale for this position.

(2) If in the IP strategy, the development of a detailed IP plan was determined to be applicable, include the plan by text or by reference. If the development of the IP plan was determined not to be applicable, summarize the details of the analysis forming the basis of this decision.

(3) If the program involves peacetime and wartime hardware configurations which are supported by logistics support plans, identify their impact on the IP plan.

(B) Ensure compliance with DoDD 4210.15, Hazardous Material Pollution Prevention.

207.106 Additional requirements for major systems.

(b)(1)(A) The contracting officer is prohibited by 10 U.S.C. 2305(d)(4)(A) from requiring offers for development or production of major systems that would enable the Government to use technical data to competitively reprocure identical items or components of the system if the item or component were developed exclusively at private expense, unless the contracting officer determines that—

(1) The original supplier of the item or component will be unable to satisfy program schedule or delivery requirements;

(2) Proposals by the original supplier of the item or component to meet mobilization requirements are insufficient to meet the agency's mobilization needs; or

(3) The Government is otherwise entitled to unlimited rights in technical data.

(B) If the contracting officer rnakes a determination under paragraphs (b)(1)(A) *(1)* and *(2)* of this section for a competitive solicitation, 10 U.S.C. 2305(d)(4)(B) requires that the evaluation of items developed at private expense be based on an analysis of the total value, in terms of innovative design, life-cycle costs, and other pertinent factors, of incorporating such items in the system.

Subpart 207.3—Contractor Versus Government Performance

207.302 General.

(d) Agencies shall not convert a commercial activity to performance by a private contractor without having first conducted a full cost comparison which demonstrates that contract performance is more economical unless:

(i) The commercial activity is performed exclusively by military personnel, there is adequate competition and reasonable prices can be obtained from qualified commercial sources, or

(ii) The commercial activity involves 45 or fewer DoD civilian employees (see section 1221, Pub. L. 99-661). When this situation applies, refer to DoDD 4100.5 and DoDI 4100.33 for further guidance.

Subpart 207.4—Equipment Lease or Purchase

207.401 Acquisition considerations.

The requiring activity must prepare and provide the contracting officer with the justification supporting the decision to lease or purchase.

4. Part 219 is revised to read as follows:

PART 219—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

Sec.

219.000 Scope of part.
219.001 Definitions.

Subpart 219.2—Policies

219.201 General policy.
219.202 Specific policies.
219.202-1 Encouraging small business participation in acquisitions.
219.202-5 Data collection and reporting requirements.

Subpart 219.3—Determination of Status as a Small Business

219.301 Representation by the offeror.
219.302 Protesting a small business representation.
219.302-70 Protesting a small disadvantaged business representation.
219.304 Solicitation provisions.

Subpart 219.5—Set-Asides for Small Business

219.501 General.
219.502 Setting aside acquisitions.
219.502-1 Requirements for setting aside acquisitions.
219.502-2 Total set-asides.
219.502-270 Total set-asides for small disadvantaged business concerns.
219.502-3 Partial set-asides.
219.502-4 Methods of conducting set-asides.
219.504 Set-aside program order of precedence.
219.505 Rejecting Small Business Administration recommendations.
219.506 Withdrawing or modifying set-asides.
219.508 Solicitation provisions and contract clauses.
219.508-70 Solicitation provisions and contract clauses.

Subpart 219.6—Certificates of Competency and Determinations of Eligibility

219.602 Procedures.
219.602-1 Referral.
219.602-3 Resolving differences between the agency and the Small Business Administration.

Subpart 219.7—Subcontracting With Small Business and Small Disadvantaged Business Concerns

219.702 Statutory requirements.
219.704 Subcontracting plan requirements.
219.705 Responsibilities of the contracting officer under the subcontracting assistance program.
219.705-2 Determining the need for a subcontracting plan.
219.705-4 Reviewing the subcontracting plan.
219.706 Responsibilities of the cognizant administrative contracting officer.
219.708 Solicitation provisions and contract clauses.

Subpart 219.8—Contracting With the Small Business Administration (The 8(a) Program)

219.803 Selecting acquisitions for the 8(a) Program.
219.804 Evaluation, offering, and acceptance.
219.804-1 Agency evaluation.

Subpart 219.10—Small Business Competitiveness Demonstration Program

219.1005 Applicability.
219.1006 Procedures.
219.1006-70 Reporting procedures.
219.1007 Solicitation provisions and contract clauses.

Subpart 219.70—Evaluation Preference for Small Disadvantaged Business (SDB) Concerns

219.7000 Policy.
219.7001 Applicability.
219.7002 Procedures.
219.7003 Solicitation provisions and contract clauses.

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, FAR subpart 1.3.

219.000 Scope of part.

This part also implements section 1207 of Public Law 99–661, section 806 of Public Law 100–180, and section 831 of Public Law 101–189. These laws set a goal for DoD for each of fiscal years 1987–1993 to—

(1) Award five percent of contract and subcontract dollars to small disadvantaged business (SDB) concerns, historically black colleges and universities (HBCUs), and minority institutions (MIs) (See part 226 for policy/procedures on HBCU/MIs); and

(2) Maximize the number of such entities in DoD contracting and subcontracting.

219.001 Definitions.

The definition of "small disadvantaged business concern" to be used for DoD contracts is in the provision at 252.219–7001 and is more restrictive than the definition in FAR 19.001.

Subpart 219.2—Policies

219.201 General policy.

(a) The DoD will use the Section 8(a) program, small disadvantaged business set asides and evaluation preferences, advance payments, outreach, and technical assistance to meet its five percent goal for contract and subcontract awards to small disadvantaged businesses.

(c)(9) Contracting activity small and disadvantaged business utilization specialists perform this function by—

(A) Reviewing and making recommendations for all acquisitions over $25,000, except small business-small purchase set-asides;

(B) Making the review before issue of the solicitation or contract modification and documenting it on DD Form XXX, Small Business Coordination Record;

(C) Referring recommendations which have been rejected by the contracting officer to the Small Business Administration procurement center representative. If a representative is not assigned or available, the specialist refers the matter to the specialist's appointing authority.

(d) Contracting and contract administration activities appoint small and disadvantaged business utilization specialists as directed by DoDD 4205.1, DoD Small Business and Small Disadvantaged Business Utilization Programs. Specialists—

(i) Report directly and are responsible only to their appointing authority;

(ii) Make sure that the contracting activity takes the necessary actions to implement small business, historically black college and university/minority institution, and labor surplus area programs;

(iii) Advise and assist contracting activity personnel on all matters which affect small businesses, historically black colleges and universities or minority institutions, and labor surplus area concerns.

219.202 Specific policies.

219.202–1 Encouraging small business participation in acquisitions.

The DoD will maximize the use of small business concerns as planned producers in the Industrial Readiness Planning Program.

219.202–5 Data collection and reporting requirements.

Determine the premium percentage to be entered in Item D4E of the Individual Contract Action Report (DD Form 350), (see 204.671–5) as follows—

(1) For small disadvantaged business or historically black college and university/minority institution set-asides, divide the difference between the fair market price and the award price by the fair market price.

(2) For 219.7000 evaluation preference awards, divide the difference between the low responsive offer and the award price by the low responsive offer.

(3) For 219.502–3 preferential consideration awards, divide the difference between the award price on the non-set-aside portion and the award price on the set-aside portion by the award price on the non-set-aside portion.

Subpart 219.3—Determination of Status as a Small Business

219.301 Representation by the offeror.

(a) A concern must qualify as a small disadvantaged business (SDB) on the date of submission of its offer and at contract award to be eligible for—

(i) Award under a small disadvantaged business set-aside;

(ii) Preferential consideration as an SDB under a partial set-aside; or

(iii) An evaluation preference for SDBs.

(b) The contracting officer shall protest an offeror's representation that it is a small disadvantaged business concern when—

(i) There is conflicting evidence;

(ii) The offeror certifies that the Small Business Administration previously determined the concern to be non-disadvantaged; or

(iii) The offeror represents its ownership as other than Black American, Hispanic American, Native American (including Indian tribes and Native Hawaiian organizations), Asian Pacific American, or Subcontinent Asian American; unless the offeror—

(A) Represents that it currently is in the Section 8(a) program; or

(B) Certifies that—

(1) Within the six months preceding submission of its offer, the offeror was determined by the Small Business Administration to be socially and economically disadvantaged; and

(2) No circumstances have changed to vary that determination.

219.302 Protesting a small business representation.

219.302–70 Protesting a small disadvantaged business representation.

This section applies to protests of a small business concern's status as socially and economically disadvantaged. Protests of a concern's size are processed under FAR 19.302. Any offeror, the contracting officer, or the Small Business Administration (SBA) may protest a concern's representation of disadvantaged status.

(a) An offeror may protest a concern's representation of disadvantaged status by filing a protest with the contracting officer. The protest—

(1) Must be filed within the times specified in FAR 19.302(d)(1); and

(2) Must contain specific detailed evidence supporting the basis of protest.

(b) The contracting officer or the SBA may protest a concern's representation of disadvantaged status at any time.

(1) If a contracting officer's protest is based on information brought to his/her attention by a party ineligible to protest directly or ineligible to protest under the timeliness standard, the contracting officer must be persuaded by the evidence presented before adopting the grounds for protest as his or her own.

(2) The SBA protests a concern's representation of disadvantaged status by filing directly with its Office of Program Eligibility and notifying the contracting officer.

(c) The contracting officer shall return untimely protests to the protestor. This includes protests filed before bid opening or notification of apparent successful offeror.

(d) Upon receipt of a timely protest, the contracting officer shall withhold award and forward the protest to the SBA Office of Program Eligibility, Office of Minority Small Business and Capitol Ownership Development, 1441 L Street, NW., Washington, DC 20416. Send SBA—

(1) The protest;

(2) The date the protest was received and a determination of timeliness;

(3) A copy of the protested concern's self-certification of disadvantaged status; and

(4) The date of bid opening or date on which notification of apparent successful offeror was sent to unsuccessful offerors.

(e) Do not withhold award when—

(1) The contracting officer makes a written determination that award must be made to protect the public interest or

(2) The offeror has certified that—

(i) Within the six months preceding submission of its offer, the SBA has determined the concern to be socially and economically disadvantaged; and

(ii) No circumstances have changed to vary that determination.

(f) The SBA Director, Office of Program Eligibility, will determine the disadvantaged status of the challenged offeror and notify the contracting officer, the challenged offeror, and the protestor. Award may be made on the basis of that determination. The determination is final for purposes of the instant acquisition, unless—

(1) It is appealed; and

(2) The contracting officer receives the appeal decision before award.

(g) If the contracting officer does not receive an SBA determination within 15 working days after the SBA's receipt of the protest, the contracting officer shall presume that the challenged offeror is socially and economically disadvantaged. Do not use the presumption as a basis for award without first inquiring as to when a determination can be expected and waiting for the determination, unless further delay in award would be disadvantageous to the Government.

(h) An SBA determination may be appealed by—

(1) The interested party whose protest has been denied;

(2) The concern whose status was protested; or

(3) The contracting officer.

The appeal must be filed with the SBA's Associate Administrator for Minority Small Business and Capital Ownership Development within five working days after receipt of the determination. If the contracting officer receives the SBA's decision on the appeal before award, the decision shall apply to the instant acquisition. If the decision is received after award, it will apply to future acquisitions.

219.304 Solicitation provisions.

(b) Use the provision at 252.219–7001, Small Disadvantaged Business Concern Representation (DoD Contracts) instead of the provision at FAR 52.219–2, Small Disadvantaged Business Concern Representation.

Subpart 219.5—Set-Asides for Small Business

219.501 General.

(g) This repetitive set-aside procedures applies to DoD.

(S–70) When a product or service has been acquired successfully by a contracting office as a small disadvantaged business set-aside, all future requirements of that office for that product or service shall be acquired as small disadvantaged business set-asides, except those—

(1) Processed under small purchase procedures; or

(2) For which the contracting officer determines there is no reasonable expectation that the criteria for a small disadvantaged business set-aside can be met.

219.502 Setting aside acquisitions.

219.502–1 Requirements for setting aside acquisitions.

Do not set-aside acquisitions for—

(1) Supplies which were developed and financed, in whole or in part, by Canadian sources under the U.S.-Canadian Defense Development Sharing Program; or

(2) Architect-engineer services of $85,000 or more (10 U.S.C. 2855), including indefinite delivery and indefinite quantity contracts if the value of all anticipated orders is expected to total $85,000 or more.

219.502–2 Total set-asides.

(a) Unless the contracting officer determines that the criteria for set-aside cannot be met, set-aside for small business concerns—

(i) Acquisitions for construction, including maintenance and repairs, under $2 million;

(ii) Acquisitions for dredging under $1 million; and

(iii) Acquisitions for architect-engineer services under $85,000.

219.502–270 Total set-asides for small disadvantaged business concerns.

(a) Except as provided in paragraph (b) of this subsection, the contracting officer shall set-aside an acquisition for small disadvantaged businesses when there is a reasonable expectation that—

(1) Offers will be received from at least two responsible small disadvantaged business (SDB) concerns who can comply with the FAR 52.219–14 limitations on subcontracting;

(2) Award will be made at not more than ten percent above fair market price; and

(3) Scientific and/or technological talent consistent with the demands of the acquisition will be offered.

(b) Do not set-aside acquisitions for SDBs when—

(1) The product or service has been successfully acquired as a small business set-aside (see FAR 19.501(g));

(2) The acquisition is for construction, including maintenance and repairs, and is under $2 million, or is for dredging under $1 million;

(3) The acquisition is for architect-engineer services or construction design for military construction projects;

(4) The acquisition is reserved for the 8(a) program;

(5) The acquisition is processed under small purchase procedures; or

(6) The acquisition is for commissary or exchange resale items.

219.502–3 Partial set-asides.

When a portion of an acquisition is to be set aside for small business concerns, the contracting officer shall give small disadvantaged business concerns preferential consideration by using the procedures in 252.219–7004, Notice of Partial Small Business Set-Aside with Preferential Consideration for Small Disadvantaged Business (SDB) Concerns.

219.502–4 Methods of conducting set-asides.

(b) Offers on a small disadvantaged business (SDB) set-aside from concerns that do not qualify as SDB concerns shall be considered nonresponsive and shall be rejected.

219.504 Set-aside program order of precedence.

(b) The order of precedence for DoD is—

(i) Total set-aside for small disadvantaged business concerns;

(ii) Total set-aside for small business concerns;

(iii) Partial set-aside for small business concerns with preferential consideration for small disadvantaged business concerns.

219.505 Rejecting Small Business Administration recommendations.

(b) The designee shall be at a level no lower than chief of the contracting office.

219.506 Withdrawing or modifying set-asides.

(a) Do not withdraw small disadvantaged business set-asides for reasons of price reasonableness unless the low responsive responsible offer exceeds fair market price by more than ten percent.

219.508 Solicitation provisions and contract clauses.

(d)(S–70) Use the clause at 252.219–7004, Notice of Partial Small Business Set-Aside with Preferential Consideration for Small Disadvantaged Business (SDB) Concerns, instead of the clause in FAR 52.219–7, Notice of Partial Small Business Set-Aside. Use the clause with its Alternate I when the contracting officer determines that there are no small disadvantaged business manufacturers that can meet the requirements of the solicitation.

(e) Use this clause also in small disadvantaged business set-asides.

219.508–70 Solicitation provisions and contract clauses.

Use the clause at 252.219–7002, Notice of Small Disadvantaged Business Set-Aside, in solicitations and contracts for small disadvantaged business set-asides. Use the clause with its Alternate I when the contracting officer determines that there are no small disadvantaged business manufacturers that can meet the requirements of the solicitation.

Subpart 219.6—Certificates of Competency and Determinations of Eligibility

219.602 Procedures.

219.602–1 Referral.

When making a nonresponsibility determination on a small business concern, the contracting officer shall notify the contracting activity's small and disadvantaged business utilization specialist.

219.602–3 Resolving differences between the agency and the Small Business Administration.

(c) If the contracting officer believes the agency should appeal, the contracting officer shall send the departmental director of the Office of Small and Disadvantaged Business Utilization, through departmental channels—

(i) A request for appeal, summarizing the issues. The request must be sent to arrive within five working days after receipt of the SBA Central Office's written position.

(ii) An appeal file, documenting the contracting activity's position. The file must be sent to arrive within five working days after transmission of the request.

The departmental director will determine whether the agency will appeal and will notify the SBA of the agency's intent.

Subpart 219.7—Subcontracting With Small Business and Small Disadvantaged Business Concerns

219.702 Statutory requirements.

(a) Section 834 of Pub. L. 101–189 requires the DoD to establish a test program to determine whether comprehensive subcontracting plans on a corporate, division, or plant-wide basis will increase subcontracting opportunities for small business concerns.

(i) The test program—

(A) Will be conducted—

(*1*) Over a three-year period, beginning October 1, 1990.

(*2*) In accordance with the DoD test plan, "Test Program for Negotiation of Comprehensive Small Business Subcontracting Plans."

(*3*) By the military departments and agencies through specifically designated contracting activities.

(B) Permits contractors selected by the designated contracting activities to—

(*1*) Negotiate plant, division, or company-wide comprehensive subcontracting plans instead of individual contract subcontracting plans.

(*2*) Use the comprehensive plans in all DoD contracts which require a subcontracting plan.

(ii) The comprehensive subcontracting plans—

(A) Will be negotiated on an annual basis by the designated contracting activities.

(B) Be incorporated initially by the contractors' cognizant contract administration activity into all of the contractors' active contracts which require a plan.

(C) Be used by all DoD contracting officers in contracts, which require a plan, awarded the selected contractors during the test period.

219.704 Subcontracting plan requirements.

(a)(1) The goal for use of small disadvantaged business concerns shall include subcontracts with historically black colleges and universities and minority institutions (see subpart 226.70), in addition to subcontracts with small disadvantaged business concerns. Subcontracts with historically black colleges and universities and minority institutions do not have to be included in the small disadvantaged business goal in plant, division, or company-wide commercial products subcontracting plans.

219.705 Responsibilities of the contracting officer under the subcontracting assistance program.

219.705–2 Determining the need for a subcontracting plan.

(d) The extent to which offerors identify and commit to small disadvantaged business, historically black college and university, or minority institution performance of the contract, whether as joint venture, teaming arrangement, or subcontractor, shall be an evaluation factor in source selection for major systems acquisitions and other complex or sensitive acquisitions which use formal or alternative source selection procedures.

219.705–4 Reviewing the subcontracting plan.

(d) Challenge any subcontracting plan that does not contain positive goals and consider the extent to which an offeror plans to use competition restricted to small disadvantaged business concerns, historically black colleges and universities, or minority institutions. A small disadvantaged business goal of less than five percent must be approved two levels above the contracting officer.

219.706 Responsibilities of the cognizant administrative contracting officer.

(a)(i) The contract administration office also is responsible for reviewing, evaluating, and approving master subcontracting plans.

(ii) The small and disadvantaged business utilization specialist supports the administrative contracting officer in evaluating a contractor's performance and compliance with its subcontracting plan.

219.708 Solicitation provisions and contract clauses.

(b) Use the clause at 252.219–7000, Small Business and Small Disadvantaged Business Subcontracting Plan (DoD Contracts), in solicitations and contracts that contain the clause at FAR 52.219–9, Small Business and Small Disadvantaged Business Subcontracting Plan.

(1) In contracts with contractors which have comprehensive subcontracting plans approved under the test program described in 219.702(a), use the clause at 252.219–7006, Small Business and Small Disadvantaged Business Subcontracting Plan (Test Program), instead of the clauses at 252.219–7000, Small Business and Small Disadvantaged Business Subcontracting Plan (DoD Contracts), and FAR 52.219–9, Small Business and Small Disadvantaged Business Subcontracting Plan.

(2) In contracts with contractors which have comprehensive subcontracting plans approved under the test program described in 219.702(a), use the clause at 252.219–7007, Liquidated Damages—Small Business Subcontracting Plan (Test Program), instead of the clause at FAR 52.219–16, Liquidated Damages—Small Business Subcontracting Plan.

(c)(1) Do not use the clause at FAR 52.219–10, Incentive Subcontracting Program for Small and Small Disadvantaged Business Concerns.

(A) When contracting by negotiation, use the clause at 252.219–7005, Incentive for Subcontracting With Small Businesses, Small Disadvantaged Businesses, Historically Black Colleges and Universities, and Minority Institutions, in all solicitations and contracts that contain the clause at FAR 52.219–9, Small Business and Small Disadvantaged Business Subcontracting Plan.

(B) Use the clause at 252.219–7005 with its Alternate I when, in the judgment of the contracting officer, inclusion of an incentive is necessary to increase subcontracting opportunities for other small businesses.

(C) Determine the percentage to be negotiated and used in the clause by considering the type and extent of effort required to exceed the goal, for example—

(*1*) Unique outreach programs;

(*2*) Use of small disadvantaged businesses, historically black colleges and universities, and minority institutions in nontraditional areas;

(*3*) Technical assistance to qualify or assist these entities; and

(*4*) Proximity of subcontractors to the prime.

(D) Do not use the clause at 252.219–7005 and FAR 52.219–10 in contracts with contractors which have comprehensive subcontracting plans approved under the test program described in 219.702(a).

(2) For negotiated acquisitions of $10 million or more, the contracting officer may use an award fee provision instead of the incentive provision required by (c)(1)(A) of this section. When an award fee provision is used, do not use the clauses at 252.219–7005, Incentive for Subcontracting With Small Businesses, Small Disadvantaged Businesses, Historically Black Colleges and Universities, and Minority Institutions, and FAR 52.219–10, Incentive Subcontracting Program for Small and Small Disadvantaged Business Concerns. Do not use award fee provisions in contracts with contractors which have comprehensive subcontracting plans approved under the test program described in 219.702(a).

Subpart 219.8—Contracting With the Small Business Administration (the 8(a) Program)

219.803 Selecting acquisitions for the 8(a) Program.

(c) Before considering the set-aside order of precedence in 219.504(b), review the acquisition for offering under the 8(a) Program.

219.804 Evaluation, offering, and acceptance.

219.804–1 Agency evaluation.

When SBA asks for a requirement for the 8(a) Program, offer the requirement if appropriate, and do not use the small disadvantaged business set-aside procedure. If an acquisition, other than a repetitive acquisition (as described in FAR 19.804–4), was synopsized using either of the notices in 205.207(d) (72) or (73) before receipt of the SBA request, the request does not have to be honored.

(f) The 8(a) firms should be offered the opportunity to give a technical presentation.

Subpart 219.10—Small Business Competitiveness Demonstration Program

219.1005 Applicability.

(a) (S–70) Dredging (SIC 1629, FPDS V216–Z216). This applies to the Army Corps of Engineers.

(b) The targeted industry categories for DoD are:

Standard Industrial Classification (SIC)	SIC Code
(1) Pharmaceutical preparations	2834
(2) Ammunition, except for small arms	3483
(3) Ordnance and accessories, not elsewhere classified	3489
(4) Turbines and turbine generator sets	3511
(5) Aircraft engines and engine parts	3724
(6) Guided missiles and space vehicles	3761
(7) Space vehicle equipment, NEC	3769
(8) Tanks and tank components	3795
(9) Search and navigation equipment	3812
(10) Communication services, NEC	4899

219.1006 Procedures.

(b)(1) During the period when small business set-asides cannot be considered for acquisitions in the four designated industry groups—

(A) The 219.502–2(a) requirements for setting aside acquisitions are waived;

(B) The restrictions at 219.502–270(b) (1), (2), and (3) do not apply and the acquisitions shall be considered for small disadvantaged business set-asides; and

(C) The evaluation preference at subpart 219.70 shall not be used.

(2) The Office of the Secretary of Defense (OSD) will decide whether to reinstate small business set-asides and will advise the departments and defense agencies. Military departments and defense agencies shall not reinstate small business set-asides unless directed by the OSD.

219.1006–70 Reporting procedures.

Reporting requirements are at 204.675.

219.1007 Solicitation provisions and contract clauses.

Do not use the clause at 252.219–7002, Notice of Evaluation Preference for Small Disadvantaged Business Concerns, in solicitations or contracts for the four designated industry groups.

Subpart 219.70—Evaluation Preference for Small Disadvantaged Business (SDB) Concerns

219.7000 Policy.

Offers from small disadvantaged business concerns shall be given an evaluation preference in accordance with this subpart.

219.7001 Applicability.

(a) The evaluation preference shall be used in competitive acquisitions where award is based on price and price related factors. The preference may be used at the discretion of the source selection authority in other competitive acquisitions.

(b) Do not use the evaluation preference in acquisitions which—

(1) Use small purchase procedures;

(2) Are set-aside for small disadvantaged businesses;

(3) Are set-aside for small businesses; or

(4) Are for commissary or exchange resale.

219.7002 Procedures.

(a) Give offers from small disadvantaged business concerns a preference in evaluation by adding a factor of ten percent to the price of all offers, except—

(1) Offers from small disadvantaged business concerns;

(2) Offers from historically black colleges and universities or minority institutions;

(3) Offers of—

(i) Eligible products under the Trade Agreements Act when the acquisition equals or exceeds the dollar threshold in FAR 25.402; or

(ii) Qualifying country end products (see the definition in 225.101); and

(4) Offers where application of the factor would be inconsistent with a Memorandum of Understanding or other

international agreement with a foreign government.

(b) Apply the factor on a line item by line item basis or apply it to any group of items on which award may be made. Add other evaluation factors such as transportation costs or rent-free use of Government facilities to the offers before applying the ten percent factor.

(c) Do not evaluate offers using the preference when it would cause award to be made at a price which exceeds fair market price by more than ten percent.

219.7003 Solicitation provisions and contract clauses.

Use the clause at 252.219-7003, Notice of Evaluation Preference for Small Disadvantaged Business Concerns, in solicitations and contracts involving the evaluation preference. Use the clause with its Alternate I when the contracting officer determines that there are no small disadvantaged business manufacturers that can meet the requirements of the solicitation.

PART 220—[Removed]

5. Part 220 is removed in its entirety.

6. Part 224 is revised to read as follows:

PART 224—PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

Subpart 224.1—Protection of Individual Privacy

Sec.
224.102 General.
224.103 Procedures.

Subpart 224.2—Freedom of Information Act

224.202 Policy.

Authority: 5 U.S.C. 301,10 U.S.C. 2202, DoD Directive 5000.35, FAR subpart 1.3.

Subpart 224.1—Protection of Individual Privacy

224.102 General.

The Act does not apply to:

(1) Systems of records the contractor maintains on its employees; or

(2) The records generated by a state or private educational organization under a contract with the Government to provide training, when the records (admission forms, grade reports) are similar to and commingled with those maintained on other students.

224.103 Procedures.

(b)(2) DoD rules and regulations are contained in DoD Directive 5400.11, Department of Defense Privacy Program.

Subpart 224.2—Freedom of Information Act

224.202 Policy.

(a) DoD implementation is in DoD Directive 5400.7, DoD Freedom of Information Act Program, and DoD Regulation 5400.7-R, DoD Freedom of Information Act Program.

7. Part 226 is revised to read as follows:

PART 226—OTHER SOCIOECONOMIC PROGRAMS

Subpart 226.70—Historically Black Colleges and Universities and Minority Institutions

Sec.
226.7000 Scope of subpart.
226.7001 Definitions.
226.7002 General Policy.
226.7003 Set-asides for HBCUs and MIs.
226.7003-1 Set-aside criteria.
226.7003-2 Set-aside procedures.
226.7004 Evaluation preference for HBCUs and MIs.
226.7005 Eligibility as an HBCU or MI.
226.7006 Protesting an HBCU or MI representation.
226.7007 Goals and incentives for subcontracting with HBCU/MIs.
226.7008 Solicitation provision and contract clause.

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, FAR subpart 1.3.

Subpart 226.70—Historically Black Colleges and Universities and Minority Institutions

226.7000 Scope of subpart.

This subpart implements the historically black college and university (HBCU) and minority institution (MI) aspects of section 1207 of Public Law 99-661, section 806 of Public Law 100-180, and section 831 of Public Law 101-189. These laws set a goal for DoD for each of fiscal years 1987-1993 to—

(a) Award five percent of contract and subcontract dollars to small disadvantaged business concerns and HBCU/MIs; and

(b) Maximize the number of such entities in DoD contracting and subcontracting.

226.7001 Definitions.

Definitions of HBCUs and MIs are in the clause at 252.226-7000.

226.7002 General Policy.

The DoD will use outreach efforts, technical assistance programs, advance payments, HBCU/MI set-asides, and evaluation preferences to meet its contract and subcontract goal for use of HBCUs and MIs.

226.7003 Set-asides for HBCUs and MIs.

226.7003-1 Set-aside criteria.

Set-aside acquisitions for exclusive HBCU and MI participation when the acquisition is for research, studies, or services of the type normally acquired from higher educational institutions and there is a reasonable expectation that—

(a) Offers will be submitted by at least two responsible HBCUs or MIs which can comply with the subcontracting limitations in the clause at FAR 52.219-14;

(b) Award will be made at not more than ten percent above fair market price; and

(c) Scientific and/or technological talent consistent with the demands of the acquisition will be offered.

226.7003-2 Set-aside procedures.

(a) As a general rule, use competitive negotiation for HBCU/MI set-asides.

(b) When using a broad agency announcement (FAR 35.016) for basic or applied research, make partial set-asides for HBCU/MIs as explained in 235.016(a)(S-70).

(c) Follow the special synopsis instructions in 205.207(d) (S-74), (S-75), and (S-76).

(d) Cancel the set-aside if the low responsible offer exceeds the fair market price (defined in FAR part 19) by more than ten percent.

226.7004 Evaluation preference for HBCUs and MIs.

In acquisitions which use the evaluation preference described in subpart 219.70 for small disadvantaged business concerns, the preference also applies to offers from HBCUs or MIs.

226.7005 Eligibility as an HBCU or MI.

(a) To be eligible for award as an HBCU or MI under the preference procedures of this subpart, an offeror must—

(1) Be an HBCU or MI, as defined in the clause at 252.226-7000, both at the time of submission of its offer and at contract award; and

(2) Provide the contracting officer with evidence of its HBCU or MI status upon request.

A list of HBCUs is published periodically by the Department of Education.

(b) The contracting officer shall accept an offeror's certification under the provision at 252.226-7001 that it is an HBCU or MI, unless—

(1) Another offeror challenges the certification; or

(2) The contracting officer has reason to question the offeror's HBCU/MI status.

226.7006 Protesting an HBCU or MI representation.

Any offeror or other interested party may challenge an offeror's HBCU or MI representation by filing a protest with the contracting officer. The protest must contain specific detailed evidence supporting the basis for the challenge. Such protests are handled in accordance with FAR 33.103 and are decided by the contracting officer.

226.7007 Goals and incentives for subcontracting with HBCU/MIs.

(a) In reviewing subcontracting plans submitted under the clause at FAR 52.219–9, Small Business and Small Disadvantaged Business Subcontracting Plan, the contracting officer shall—

(1) Ensure that the contractor included anticipated awards to HBCU/MIs in the small disadvantaged business goal;

(2) Consider whether subcontracts are contemplated which involve research or studies of the type normally performed by higher educational institutions.

(b) Use of incentives for subcontracting with HBCU/MIs is prescribed in 219.708(c)(1).

226.7008 Solicitation provision and contract clause.

(a) Use the clause at 252.226–7000, Notice of Historically Black College or University and Minority Institution Set-Aside, in solicitations and contracts set-aside for HBCU/MIs.

(b) Use the provision at 252.226–7001, Historically Black College or University and Minority Institution Certification, in solicitations set-aside for HBCU/MIs and in solicitations which contain the clause at 252.219–7003, Notice of Evaluation Preference for Small Disadvantaged Business Concerns.

8. Part 229 is revised to read as follows:

PART 229—TAXES

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, FAR subpart 1.3.

Subpart 229.1—General

229.101 Resolving tax problems.

(a) Within DoD, the agency-designated legal counsels are:

Army—Chief, Contract Law Division, Office of the Judge Advocate General
Navy—General Counsel
Air Force—General Counsel
Defense Logistics Agency—General Counsel
National Security Agency—General Counsel
Defense Communications Agency—General Counsel
Defense Nuclear Agency—General Counsel
Defense Mapping Agency—General Counsel

(c) The contracting officer may direct the contractor to litigate the applicability of a particular tax if—

(i) The contract is either a cost reimbursement type or a fixed price type with a tax escalation clause, and

(ii) The direction is coordinated with the agency-designated legal counsel through the DoD Tax Policy and Advisory Group.

(d)(i) Review DoD Directive 5100.64, Department of Defense Foreign Tax Relief Program, before contracting with a foreign source. Refer questions on implementation of the program to the following Commanding Officers, which have been designated under subsection E.7 of DoDD 5100.64 to serve as—

(A) Single point of contact for U.S. contracting offices for investigation and resolution of specific foreign tax relief matters, and

(B) Liaison with responsible diplomatic mission and local foreign tax authorities:

Country or area	Designated commanding officer
Australia	Commander in Chief, Pacific Representative, Australia.
Azores	Commander, U.S. Forces, Azores.
Bahrain	Commander in Chief, U.S. Naval Forces, Europe.
Belgium	Commander in Chief, U.S. Army, Europe.
Bermuda	Commanding Officer, U.S. Naval Air Station, Bermuda.
Canada	Commander, Space Command.
Caribbean Islands (including Bahamas).	Commander, Antilles Defense Command.
Denmark	Commander in Chief, U.S. Air Forces, Europe.
Ethiopia	Commander in Chief, U.S. Army, Europe.
France	Commander in Chief, U.S. Army, Europe.
Germany	Commander in Chief, U.S. Army, Europe.
Greece	Commander in Chief, U.S. Air Forces, Europe.
Greenland	Commander, Space Command.
Iceland	Commander, Iceland Defense Force.
Iran	Commander in Chief, U.S. Army, Europe.
Italy	Commander in Chief, U.S. Naval Forces, Europe.
Japan	Commander, U.S. Forces, Japan.
Korea	Commander, U.S. Forces, Korea.
Luxembourg	Commander in Chief, U.S. Army, Europe.
Morocco	Commander in Chief, U.S. Naval Forces, Europe.
Netherlands	Commander in Chief, U.S. Air Forces, Europe.
New Zealand	Commander, U.S. Naval Support Forces, Antarctica.
Norway	Commander in Chief, U.S. Air Forces, Europe.
Philippines	Commander in Chief, Pacific Representative, Philippines.
Portugal	Commander in Chief, U.S. Naval Forces, Europe.
Spain	Commander in Chief, U.S. Air Forces, Europe.
Taiwan	Commander, U.S. Military Assistance Command, Thailand.
Turkey	Commander in Chief, U.S. Air Forces, Europe.
United Kingdom	Commander in Chief, U.S. Air Forces, Europe.

Refer foreign tax relief questions which have not been resolved by the designated Commanding Officer to the agency-designated legal counsel.

(ii) When an acquisition is for a contract to be performed in a country or area listed in paragraph (d)(i)(B) of this section—

(A) Obtain from the designated Commanding Officer detailed information concerning the taxes and duties from which the Government of the United States is exempt, and

(B) Provide the information to prospective offerors.

(C) Do not provide prospective offerors any other information about foreign taxes or duties.

(D) Issue tax exemption certificates, as appropriate, to assist the contractor in obtaining relief from foreign taxes and duties which were excluded from the contract price.

(E) Seek advice and assistance from the designated Commanding Officer and, if necessary, the agency-designated legal counsel if the contractor notifies the contracting officer that it has been assessed a tax or duty by a foreign government which could increase the contract price.

9. Part 231 is revised to read as follows:

PART 231—CONTRACT COST PRINCIPLES AND PROCEDURES

Subpart 231.2—Contracts With Commercial Organizations

Sec.
231.205 Selected costs.
231.205–1 Public relations and advertising costs.
231.205–10 Cost of money.
231.205–18 Independent research and development and bid and proposal costs.
231.205–38 Selling costs.
231.270 Solicitation provisions and contract clauses.

Subpart 231.70—Penalties for Unallowable Costs

231.7000 Scope of Subpart.
231.7001 General.
231.7002 Responsibilities.
231.7003 Procedures.

231.7003–1 Assessing the penalty.
231.7003–2 Computing the penalty.
231.7004 Contract clause.

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, FAR subpart 1.3.

Subpart 231.2—Contracts with Commercial Organizations

231.205 Selected costs.

231.205–1 Public relations and advertising costs.

(f)(2) These costs are allowable if incurred as part of a significant effort to promote export sales of U.S. defense industry products.

(8) The costs made allowable under 231.205–38(c) are also an exception.

(g) This does not apply to the DoD.

231.205–10 Cost of money.

The contractor also must comply with Subpart 230.70 and maintain records to demonstrate compliance.

231.205–18 Independent research and development and bid and proposal costs.

(c) The total amount of IR&D/B&P costs allocated to DoD contracts shall not exceed the total of expenditures for IR&D/B&P projects with a potential military relationship.

(i) For contracts where costs are not determined on a historical basis, estimated IR&D/B&P costs allocated to the contract must not exceed their proportionate share of the total estimated costs of IR&D/B&P with a potential military relationship.

(ii) IR&D/B&P costs are considered to satisfy the potential military relationship requirement when the contractor can demonstrate that the effort under a proposed contract or grant would have a potential relationship to a military function or operation.

(iii) The contracting officer will—

(A) Determine the potential military relationship of IR&D/B&P; and

(B) Provide the results of the determination to the contractor.

(iv) See 225.7304 for additional allowability provisions affecting foreign military sale contracts.

231.205–38 Selling costs.

(b) Other market planning costs are allowable to the extent that they are reasonable and comply with the provisions of paragraph (c) of this subsection.

(c) The costs of broadly-targeted and direct selling efforts and market planning other than long range, which are incurred in connection with a significant effort to promote export sales of products of the U.S. defense industry, including the costs of exhibiting and demonstrating such products, are allowable on contracts with the DoD provided:

(i) The costs are allocable, reasonable, and otherwise allowable under this subpart and FAR part 31. Costs normally unallowable under FAR 31.205–1(f)(2)(i) and (iii), (f)(5), and (f)(8) are allowable if they meet the requirements of 231.205–38(c).

(ii) That, for a business segment which allocates to DoD contracts $2,500,000 or more of such costs in any fiscal year of such business segment, the allowable amount shall not be in excess of 110 percent of such costs incurred by the business segment in the previous fiscal year.

(iii) In order to comply with Public Law 100–456, the substance of this paragraph (c) shall apply to all DoD contracts and subcontracts of the contractor, which are being performed by the contractor on the first day of the contractor's first full fiscal year that begins on or after December 22, 1988, whether or not a contract or subcontract contains this paragraph (c). This paragraph (c)(iii) is effective until September 30, 1991.

(d) The cost of selling efforts other than those addressed in FAR 31.205–38 (b) or (c) or paragraph (c) of this subsection are unallowable.

(f) Additional allowability provisions for foreign military sale contracts are in 225.7304 and 225.7305.

231.270 Solicitation provisions and contract clauses.

Use the clause at 252.231–7000, Supplemental Cost Principles, in all solicitations and contracts, except those which use the small purchase procedures of FAR part 13.

Subpart 231.70—Penalties for Unallowable Costs

231.7000 Scope of Subpart.

(a) This subpart implements 10 U.S.C. 2324(a) through (d), which requires that the DoD assess penalties against contractors which include unallowable costs in a final indirect cost rate proposal or any other proposal that includes incurred and accrued indirect costs.

(b) This subpart applies to all DoD contracts awarded after February 26, 1987, in excess of $100,000, except firm fixed-price contracts.

231.7001 General.

(a) The law provides for the following penalties:

(1) If the cost is unallowable based on clear and convincing evidence, the penalty is equal to—

(i) The amount of the disallowed costs, plus

(ii) Interest on the paid portion, if any, of the disallowance.

(2) If the cost was determined to be unallowable before proposal submission, the penalty is the amount in paragraph (a)(1) of this section plus two times the amount of the disallowed cost.

(3) If a penalty is assessed under paragraphs (a) (1) or (2) of this section, the agency may assess an additional penalty of not more than $10,000 per proposal.

(b) These penalties are in addition to other civil and criminal penalties provided by law.

(c) It is not necessary for unallowable costs to have been paid to the contractor in order to assess a penalty.

231.7002 Responsibilities.

(a) Agencies are responsible for—

(1) Designating officials authorized to assess the penalty in 231.7001(a)(3).

(2) Establishing requirements for documentation and review of administrative contracting officer (ACO) determinations and recommendations to assess the penalties in 231.7001(a).

(b) The cognizant ACO is responsible for—

(1) Determining whether the penalties in 231.7001(a) (1) and (2) should be assessed.

(2) Initiating recommendations to assess the penalty under 231.7001(a)(3).

(3) If there is evidence that the contractor knowingly submitted unallowable costs—

(i) Referring the matter to the appropriate Defense criminal investigative organization for review; and

(ii) Taking the actions indicated in DoDD 7050.5, Coordination of Remedies for Fraud and Corruption Relating to Procurement Activities.

(c) The contract auditor, in review and/or determination of final rate proposals for contracts subject to this Subpart, is responsible for—

(1) Recommending to the ACO which costs may be unallowable and subject to the penalties in 231.7001(a) (1) and (2).

(2) Providing rationale and supporting documentation for any recommendation.

231.7003 Procedures.

231.7003–1 Assessing the penalty.

(a) The cognizant ACO shall—

(1) Assess the penalty in 231.7001(a)(1) when the submitted cost is unallowable based on clear and convincing evidence; or

(2) Assess the penalty in 231.7001(a)(2) when the submitted cost was determined to be unallowable prior to submission of the proposal. Prior

determinations of unallowability may be evidenced by—

(i) A DCAA Form 1, Notice of Contract Costs Suspended and/or Disapproved, (see FAR 42.705–2) which—

(A) The contractor elected not to appeal; or

(B) Was not withdrawn by DCAA.

(ii) A contracting officer final decision which was not appealed.

(iii) Prior ASBCA or court decision involving the contractor, which upheld the cost disallowance.

(iv) Any determination of unallowability under FAR 31.201–6.

(3) Issue a final decision (see FAR 33.211) which includes a demand for payment of any penalty assessed under 231.7001(a) (1) or (2). The letter shall state that the determination is a final decision under the Disputes clause of the contract. (Demanding payment of the penalty is separate from demanding repayment of any paid portion of the disallowed cost.)

(b) The designated agency official, after receiving the ACO's recommendation and where circumstances warrant the additional penalty, may assess the penalty in 231.7001(a)(3). Appropriate circumstances may include contractor's repeated submissions of unallowable costs.

231.7003–2 Computing the penalty.

(a) The amount of the disallowed costs subject to penalty is the amount submitted in the contractors proposal which—

(1) Is allocated to contracts subject to this subpart (see 231.7000(b)); and

(2) Is determined to be unallowable based on clear and convincing evidence.

(b) Compute interest on the paid portion of the disallowed cost.

(1) Consider the overpayment to have occurred, and interest to have started running, from the midpoint of the contractor's fiscal year. Use an alternate equitable method if the cost was not incurred and paid evenly over the fiscal year.

(2) Use the interest rate specified by the Secretary of Treasury pursuant to Public Law 92–41.

(3) Compute interest from the date of overpayment to the date of the demand letter for payment of the penalty.

(4) Determine the paid portion of the disallowed cost in consultation with the contract auditor.

231.7004 Contract clause.

Use the clause at 252.231–7001, Penalties for Unallowable Costs, in all solicitations and contracts over $100,000, except firm fixed-price contracts.

10. Part 233 is revised to read as follows:

PART 233—PROTESTS, DISPUTES, AND APPEALS

Subpart 233.2—Disputes and Appeals

Sec.
233.204 Policy.
233.210 Contracting officer's authority.
233.214 Contract clause.

Subpart 233.70—Certification of Claims and Requests for Adjustment or Relief

233.7000 Policy.
233.7001 Contract clause.

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, FAR subpart 1.3.

Subpart 233.2—Disputes and Appeals

233.204 Policy.

Before settling a current claim, the contracting officer, when appropriate, should get information on claims previously filed with other contracting officers.

233.210 Contracting officer's authority.

10 U.S.C. 2405 prohibits adjustments in price under a shipbuilding contract entered into after December 7, 1983, for a claim, request for equitable adjustment, or demand for payment, arising out of events occurring more than 18 months before submission of the claim, request, or demand.

233.214 Contract clause.

Use Alternate I of the clause at FAR 52.233–1, Disputes, when—

(1) The acquisition is for—

(i) Aircraft

(ii) Spacecraft and launch vehicles

(iii) Naval vessels

(iv) Missile systems

(v) Tracked combat vehicles

(vi) Related electronic systems;

(2) The contracting officer determines that continued performance is—

(i) Vital to the national security, or

(ii) Vital to the public health and welfare; or

(3) The head of the contracting activity determines that continued performance is necessary pending resolution of any claim arising under or relating to the contract.

Subpart 233.70—Certification of Claims and Requests for Adjustment or Relief

233.7000 Policy.

(a) Contractors must make a good faith certification for a claim or request over $100,000 at the time of submission of a claim (see definition in FAR 33.201), request for equitable adjustment, or request for relief under Public Law 85–804 (see FAR part 50), or other similar request. The certification must be signed by a senior company official in charge at the contractor's plant or location involved.

(b) Submission of the certification in paragraph (a) of this section is in addition to any certification required by FAR part 15 or FAR part 33, except the certification requirement in FAR 33.207 will satisfy the requirement in 233.7000(a) for certification of a claim if the certification is signed by a senior company official.

233.7001 Contract clause.

Use the clause at 252.233–7000, Certification of Claims and Requests for Adjustment or Relief, in all contracts expected to exceed $100,000.

11. Part 243 is revised to read as follows:

PART 243—CONTRACT MODIFICATIONS

Subpart 243.1—General

Sec.
243.102 Policy.
243.107 Contract clause.
243.107–70 Identification of foreign military sale (FMS) requirements.

Subpart 243.2—Change Orders

243.205 Contract clauses.
243.205–70 Engineering change proposals.
243.205–71 Pricing of contract modifications.

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, FAR subpart 1.3.

Subpart 243.1—General

243.102 Policy.

(b)(i) See 217.7503 for limitations on issuing unpriced contract modifications.

(ii) Modifications of letter contracts are subject to the same policies and procedures as modifications of definitive contracts.

243.107 Contract clause.

For DoD, the "specifically authorized representative" (SAR) referred to in the clause at FAR 52.243–7, Notification of Changes, is a "contracting officer's representative" as defined in 202.101.

243.107–70 Identification of foreign military sale (FMS) requirements.

Identify contract modifications that add FMS requirements by clearly marking "FMS Requirement" on the front. Within the modification, cite each FMS case identifier code by line/subline item number, e.g., FMS Case Identifier GY–D–DCA.

Subpart 243.2—Change Orders

243.205 Contract clauses.

243.205-70 Engineering change proposals.

Engineering changes can originate with either the contractor or the Government. In either case, the Government will need detailed information from the contractor for evaluation of the technical, cost, and schedule effects of implementing the change. When the contracting officer wants this information submitted in the format prescribed by MIL-STD-480, use the clause at 252.243-7000, Engineering Change Proposals. Use the clause with its Alternate I, when appropriate, to discourage submission of a large number of small dollar, contractor originated engineering change proposals.

243.205-71 Pricing of contract modifications.

Use the clause at 252.243-7001, Pricing of Contract Modifications, in solicitations and contracts when anticipating and using a fixed price type contract.

12. Part 248 is revised to read as follows:

PART 248—VALUE ENGINEERING

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, FAR subpart 1.3.

Subpart 248.2—Contract Clauses

248.270 Supplemental clause.

When one of the clauses prescribed by FAR subpart 48.2 is used and the contracting officer wants value engineering change proposals submitted in the format prescribed by MIL-STD-480 or 481, use the clause at 252.248-7000, Preparation of Value Engineering Change Proposals.

13. Part 250 is revised to read as follows:

PART 250—EXTRAORDINARY CONTRACTUAL ACTIONS

Sec.

250.001 Definitions.

Subpart 250.1—General

250.103 Deviations.
250.104 Reports.
250.105 Records.

Subpart 250.2—Delegation of and Limitations on Exercise of Authority

250.201 Delegation of authority.
250.201-70 Delegations.
250.202 Contract adjustment boards.

Subpart 250.3—Contract Adjustments

250.303 Contractor requests.
250.305 Processing cases.
250.305-70 Record of request.
250.305-71 Processing cases to contract adjustment boards.
250.305-72 Processing by the board.
250.306 Disposition.
250.306-70 Record of disposition.

Subpart 250.4—Residual Powers

250.403 Special procedures for unusually hazardous or nuclear risks.
250.403-70 Indemnification under contracts involving both research and development and other work.

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, FAR subpart 1.3.

250.001 Definitions.

As used in this part,

Agency head does not include heads of defense agencies.

Secretarial level means—

(1) An official at or above the level of an Assistant Secretary (or Deputy) of Defense or of the Army, Navy, or Air Force, and

(2) A contract adjustment board established by the Secretary concerned.

Subpart 250.1—General

250.103 Deviations.

For deviation purposes, "defense agencies" include the Departments of the Army, Navy, and Air Force, as well as agencies under the purview of the Office of the Secretary of Defense.

250.104 Reports.

Departmental and agency supplements identify officials responsible for preparing and processing the reports required by this section.

250.105 Records.

(1) Departments and agencies will—

(i) Prepare a preliminary record when a request for a contract adjustment under FAR subpart 50.3 is filed (see 250.305-70).

(ii) Prepare a final record stating the disposition of the request (see 250.306-70).

(iii) Designate the offices or officials responsible for preparing and submitting all records required by this part 250. Records shall be maintained by the Contract Adjustment Boards of the Army, Navy, and Air Force, respectively, and by the headquarters of the defense agencies.

(2) A suggested format for the records follows. This format permits the information required for the preliminary and final records to be combined on one form.

BILLING CODE 3810-01-M

☐ PRELIMINARY	RECORD OF REQUEST FOR ADJUSTMENT PUBLIC LAW 85–804	FINAL ☐
DATE OF REQUEST		DATE RECEIVED BY GOVERNMENT
CONTRACTOR'S NAME AND ADDRESS ☐ SMALL BUSINESS		
NAME AND ADDRESS OF CONTRACTOR'S REPRESENTATIVE, IF ANY		
COGNIZANT CONTRACTING OFFICER OR OFFICE		CONTRACTING ACTIVITY
PROPERTY OR SERVICE INVOLVED		EXTENT OF PERFORMANCE AS OF DATE OF REQUEST
CONTRACT NUMBER	DATE	SEALED BID OR NEGOTIATED / TYPE OF CONTRACT
CATEGORY OF CASE		AMOUNT OR DESCRIPTION OF REQUEST
ACTION BELOW SECRETARIAL LEVEL		DATE
ACTION BY CAB		DATE
IMPLEMENTATION		DATE
ADDITIONAL DATA OR REMARKS		
DATE THIS RECORD SIGNED	SIGNATURE	

BILLING CODE 3810-01-M

(3) The following instructions are provided for those items which are not self-explanatory:

(i) *Extent of performance as of date of request.* State degree of completion of contract; e.g., 50 percent completed or performance not yet begun. If work is completed, state date of completion and whether final payment has been made.

(ii) *Award procedure.* State whether contract was awarded under sealed bidding or negotiated procedures. Cite specific authority for using other than full and open competition, if applicable, e.g., 10 U.S.C. 2304(c)(1).

(iii) *Type of contract.* State type of contract (see FAR part 16); e.g., FFP (firm fixed-price).

(iv) *Category of case.* State whether the request involves an amendment without consideration, a mistake, or an informal commitment. If the case involves more than one category, identify both; list the most significant category first.

(v) *Amount or description of request.* If the request is expressed in dollars, state the amount and whether it is an increase or decrease. If the request cannot be expressed in monetary terms, provide a brief description; e.g., "Cancellation" or "Modification." Even if the adjustment is not easily expressed in terms of dollars, if the contractor has made an estimate in the request, that estimate should be stated.

(vi) *Action below Secretarial level.* State the disposition of the case, the office that took the action and the date the action was taken. The disposition should be stated as "Withdrawn," "Denied," "Approved," or 'Forwarded." If the request was approved, in whole or in part, state the dollar amount or nature of the action (as explained in paragraph (3)(v) of this section. The date should correspond with the date of the memorandum of decision or of the letter forwarding the request to the contract adjustment board or other deciding body.

(vii) *Action by contract adjustment board and date.* State the disposition and date of disposition of the case by the contract adjustment board. Provide the same information as for paragraph (3)(vi) of this section.

(viii) *Implementation and date.* State the appropriate action; e.g., "Amendment," "New Contract," or "Letter of Denial."

Subpart 250.2—Delegation of and Limitations on Exercise of Authority

250.201 Delegation of authority.

(b) Authority under FAR subpart 50.4 to approve actions obligating $50,000 or less may not be delegated below the level of the head of the contracting activity; however, see FAR 50.201(d) for indemnification authority.

250.201-70 Delegations.

(a) *Military Departments.* The Departments of the Army, Navy and Air Force will specify delegations and levels of authority for actions under the Act and the Executive Order in departmental supplements.

(b) *Defense Agencies.* Subject to the restrictions on delegations of authority in 250.201(b) and FAR 50.201, the Directors of the Defense Logistics Agency, the Defense Nuclear Agency, the National Security Agency, and the Defense Mapping Agency may exercise and redelegate the authority contained in the Act and the Executive Order. The agency supplements shall specify the delegations and levels of authority. Actions in excess of the authority delegated by this subsection must be submitted to the Assistant Secretary of Defense, Production and Logistics, for approval.

(c) *Approvals.* The service Secretary or agency Director must approve any delegations in writing.

250.202 Contract adjustment boards.

The Departments of the Army, Navy, and Air Force each have a contract adjustment board. The board consists of a Chair and not less than two nor more than six other members, one of whom may be designated the Vice-Chair. A majority constitutes a quorum for any purpose and the concurring vote of a majority of the total board membership constitutes an action of the board. Alternates may be appointed to act in the absence of any member.

Subpart 250.3—Contract Adjustments

250.303 Contractor requests.

Requests should be filed with the procuring contracting officer (PCO). If a request is filed with an administrative contracting officer (ACO), the ACO shall promptly forward it to the PCO for appropriate action. If filing with the PCO is impracticable, requests may be filed with the following addresses for forwarding to the cognizant PCO:

(1) Army or Navy: The head of the contracting activity listed in part 202 which appears to be cognizant of the contract or commitment involved.

(2) Air Force: Commander, Air Force Logistics Command, ATTN: PPC, Wright-Patterson Air Force Base, Ohio.

(3) Defense Logistics Agency: The Commander of the Defense Supply Center involved.

(4) Defense Communications Agency: Director, DCA, ATTN: Code 260.

(5) Defense Nuclear Agency: Director, DNA, ATTN: OAPR.

(6) National Security Agency: Director, NSA.

(7) Defense Mapping Agency: Director, DMA, ATTN: LO.

250.305 Processing cases.

250.305-70 Record of request.

At the time the request is filed, the activity will prepare the record described at 250.105(1)(i) and forward it to the appropriate official within 30 days after the close of the month in which the record is prepared.

250.305-71 Processing cases to contract adjustment boards.

(a) The officer or official responsible for the case shall forward the contract adjustment board two copies of the following:

(1) A letter stating—

(i) The nature of the case;

(ii) The basis for the board's authority to act;

(iii) The findings of fact essential to the case (see FAR 50.304). Arrange the findings chronologically with cross references to supporting enclosures;

(iv) The conclusions drawn;

(v) The recommended disposition; and

(vi) If contractual action is recommended, a statement by the signer that the action will facilitate the national defense.

(2) The contractor's request

(3) All evidentiary materials

(4) All endorsements, reports and comments of cognizant Government officials

(b) A letter to the Board recommending an amendment without consideration (see FAR 50.302-1(a)) should—

(1) Provide the information required by FAR 50.304 (a) and (b), and

(2) Findings as to—

(i) The contractor's performance record, including the quality of product, rate of production, and promptness of deliveries;

(ii) The importance to the Government, particularly to the active duty military, of the performance of the contract and the importance of the contractor to the national defense;

(iii) The forecast of future contracts with the contractor; and

(iv) Other available sources of supply for the supplies or services covered by the contract, and the time and cost of having contract performance completed by such other sources.

250.305-72 Processing by the board.

Contract adjustment boards will render decisions as expeditiously as

practicable. The Chair shall sign a memorandum of decision disposing of the case. The decision shall be dated and shall contain the information required by FAR 50.306. The memorandum of decision shall not contain any information classified "Confidential" or higher. The board's decision will be sent to the appropriate official for implementation.

250.306 Disposition.

250.306-70 Record of disposition.

(a) When the request for relief is denied or approved below the Secretarial level, submit the following documents to the appropriate office within 30 days after the close of the month in which the decision is executed:

(1) Two copies of the memorandum of decision;

(2) Except for the Army, one copy of the contractual document implementing any decision approving contractual action; and

(3) One copy of a final record, as described at 250.105.

(b) When a contract adjustment board decision is implemented, the activity which forwarded the case to the board shall prepare and submit to the board the documents identified in paragraphs (a) (2) and (3).

Subpart 250.4—Residual Powers

250.403 Special procedures for unusually hazardous or nuclear risks.

250.403-70 Indemnification under contracts involving both research and development and other work.

When indemnification is to be provided on contracts requiring both research and development work and other work, the contracting officer shall insert an appropriate clause using the authority of both 10 U.S.C. 2354 and Public Law 85-804.

(a) The use of Public Law 85-804 is limited to work which cannot be indemnified under 10 U.S.C. 2354 and is subject to compliance with FAR subpart 50.4

(b) Indemnification under 10 U.S.C. 2354 is covered by 235.070.

14. Part 251 is revised to read as follows:

PART 251—USE OF GOVERNMENT SOURCES BY CONTRACTORS

Subpart 251.1—Contractor Use of Government Supply Sources

Sec.

251.100 Scope of subpart.
251.102 Authorization to use Government supply sources.
251.103 Ordering from Government supply sources.
251.106 Title.
251.107 Contract clause.

Subpart 251.2—Contractor Use of Interagency Fleet Management System (IFMS) Vehicles

251.202 Authorization.
251.205 Contract clause.

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, FAR subpart 1.3.

Subpart 251.1—Contractor Use of Government Supply Sources

251.100 Scope of subpart.

FAR subpart 51.1 and this subpart apply to the acquisition of supplies to be delivered in the United States, its possessions, or Puerto Rico. (Grantees cannot be authorized to use General Services Administration (GSA) sources.)

251.102 Authorization to use Government supply sources.

(e) Use the following format:

Subject: Authorization to Purchase from Government Supply Sources

(Contractor's Name)

(Contractor's Address)

1. You are hereby authorized to use Government sources in performing Contract No. _____ for the Department of _____, as follows: (Insert applicable purchasing authority given to the contractor.)

2.a. Purchase Orders Under Federal Supply Schedules or Personal Property Rehabilitation Price Schedules. Place orders in accordance with the terms and conditions of the attached Schedule(s) and this authorization. Attach a copy of this authorization to the order (unless a copy was previously furnished to the Federal Supply Schedule or Personal Property Rehabilitation Price Schedule contractor). Insert the following statement in the order: This order is placed under written authorization from _____, dated _____ (*_____). In the event of any inconsistency between the terms and conditions of this order and those of the Federal Supply Schedule or Personal Property Rehabilitation Price Schedule contract, the latter will govern.

b. Requisitioning from the General Services Administration (GSA) or the Department of Defense (DoD). Place orders in accordance with this authorization and, as appropriate, the:

(1) Federal Standard Requisitioning and Issue Procedures (FEDSTRIP) (GSA FEDSTRIP Operating Guide: FPMR 101-26.2 (41 CFR 101-26.2); copies are available from the Superintendent of Documents, Government Printing Office, Washington, DC 20402); or

(2) Military Standard Requisitioning and Issue Procedures (MILSTRIP) (DoD 4000.25-1-M; copies are available from the Defense Logistics Agency, ATTN: DLA-XPD, Bldg., 6, Dr. 21, Cameron Station, Alexandria, VA 22304-6100).

3. * * *

4. This authority is not transferable or assignable.

5. The DoD Activity Address Directory (DoDAAD))(DoD 4000.25-6-M) Activity Address Code** to which this Authorization applies is _____.

6. This Authorization expires _____.

(Contracting Officer)

*Insert "a copy of which is attached," "a copy of which you have on file," or other suitable language, as appropriate.

**The sponsoring service assumes responsibility for monitoring and controlling all activity address codes used in the letters of authority.

***Insert other provisions, as necessary.

(3)(ii) In addition to the procedure and and form authorized by FAR 51 102(e)(3)(ii), contractors may use the DD Form 1155 when requisitioning from the Department of Veterans Affairs.

251.103 Ordering from Government supply sources.

(b) *Contracting agency* means the contracting officer.

251.106 Title.

(b) For DoD, title to property having an acquisition cost of $5,000 or less shall vest in the contractor under the circumstances described in FAR 51.106(b).

251.107 Contract clause.

Use the clause at 252.251-7000, Ordering From Government Supply Sources, in solicitations and contracts which include the clause at FAR 52.251-1, Government Supply Sources.

Subpart 251.2—Contractor Use of Interagency Fleet Management System (IFMS) Vehicles

251.202 Authorization.

(a)(2)(A) See FAR 28.307-2(c) for policy on contractor insurance.

(B) See FAR 28.308 for policy on self-insurance.

(C) See FAR 31.205-19 for allowability of insurance costs.

(5) Paragraph (d) of the clause at 252.251-7001 satisfies the requirement of FAR 51 .202(a)(5) for a written statement.

251.205 Contract clause.

Use the clause at 252.251-7001, Use of Interagency Fleet Management System (IFMS) Vehicles and Related Services, in solicitations and contracts which include the clause at FAR 52.251-2,

Interagency Fleet Management System (IFMS) Vehicles and Related Services.

15. The authority for 48 CFR part 252 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, FAR subpart 1.3.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.203-7000 [Removed]

16. Section 252.203-7000 is removed.

17. Section 252.203-7002 is redesignated as section 252.203-7000 and revised to read as follows:

252.203-7000 Statutory Prohibitions on Compensation to Former Department of Defense Employees.

As prescribed in 203.170-4, use the following clause:

Statutory Prohibition on Compensation to Former Department of Defense Employees (Feb 1991)

(a) Definitions.

As used in the clause—

Armed Forces means the uniformed military services, excluding the U.S. Coast Guard.

Compensation means any payment, gift, benefit, reward, favor, or gratuity which is provided directly or indirectly for services rendered by the person accepting such payment, gift, benefit, reward, favor, or gratuity, and which has a fair market value in excess of $250. Compensation is indirectly provided if it is paid to an entity other than the individual, specifically in exchange for services performed by the individual.

Defense contractor means an entity (including affiliates and subsidiaries which clearly engage in the performance of Department of Defense (DoD) contracts) that contracts directly with the DoD to supply goods or services. "Defense contractor" does not include a state or local government.

Designated Agency Ethics Official means a DoD officer or employee who has been appointed to administer the provisions of the Ethics in Government Act, as amended.

Former DoD Employee means a person who served in the DoD in a civilian position for which the rate of pay was equal to or greater than the minimum rate of pay for grade GS-13 of the General Schedule, or served in the Armed Forces in a pay grade of 04 or higher.

Former DoD Official means—

(1) A former DoD employee who spent the majority of working days during the last 2 years of DoD service performing a procurement function relating to:

(i) A DoD contract, at a site or plant that was owned or operated by the Contractor, and which was the principal location of such person's performance of that procurement function; or

(ii) A major defense system and, in the performance of such function, participated on any occasion personally and substantially in a manner involving decision making responsibilities with respect to a contract for that system through contact with the Contractor;

(2) An individual who served in a civilian position for which the rate of pay is equal to or greater than the minimum rate of pay for a Senior Executive Service position or other executive position at the same or higher level, and an individual who served in the Armed Forces in the pay grade of 07 or higher, if such individual during the last 2 years of DoD service—

(i) Acted as one of the primary Government representatives in the negotiation with a defense contractor of a DoD contract in an amount in excess of $10 million; or

(ii) Acted as one of the primary Government representatives in the negotiation of a settlement of an unresolved claim of such a defense contractor in an amount in excess of $10 million. An unresolved claim shall be, for the purposes of this section, valued by the greater of the amount of the claim or the amount of the settlement.

Major defense contractor means any business entity which, during the Government fiscal year preceding the Government fiscal year in which compensation was first provided to a former DoD employee, was awarded DoD contracts in a total amount of $10 million or more.

Major defense system means a combination of elements that will function together to produce the capability required to fulfill a mission need. Elements may include hardware, equipment, software, or any combination thereof, but exclude construction or other improvements to real property. A system shall be considered a major defense system if—

(1) The DoD is responsible for the system and the total expenditures (based on fiscal year 1980 constant dollars) for research, development, test and evaluation for the system, are estimated to exceed $75 million or the eventual total expenditure for procurement is estimated to exceed $300 million; or

(2) The system is designated a major system by the head of the agency responsible for the system.

Primary Government representative means, if more than one Government representative is involved in any particular transaction, the official or officials supervising the Government's effort in the matter. To act as a "representative" requires personal and substantial participation in the transaction, by personal presence, telephone conversation, or similar involvement with representatives of a contractor.

Procurement-related function (or *procurement function*) means any function relating to—

(1) The negotiation, award, administration, or approval of a contract;

(2) The selection of a contractor;

(3) The approval of a change in a contract;

(4) The performance of quality assurance, operational and developmental testing, the approval of payment, or auditing under a contract; or

(5) The management of a procurement program.

(b) Prohibition on compensation.

(1) 10 U.S.C. 2397b and 2397c prohibit a major defense contractor from offering or providing any compensation valued in excess of $250 to a former DoD official who left DoD service on or after April 16, 1987, and who, while employed by DoD, performed procurement-related functions in connection with that defense contractor. This prohibition runs for the 2-year period beginning on the date of the official's separation from service in DoD.

(2) The Contractor, if a major defense contractor, agrees not to provide, for the 2-year period, any compensation to the former DoD official.

(3) DoD employees may request from their Designated Agency Ethics Official (DAEO) a written opinion on the applicability of 10 U.S.C. 2397b prior to the acceptance of compensation. If the opinion of the DAEO is that the law is not applicable, and that the individual may accept compensation from the Contractor, there shall be a conclusive presumption that the offering and the acceptance of such compensation is not a violation of the statute.

(c) Report concerning former DoD employees.

(1) The Contractor shall submit a separate written report, as described in paragraph (c)(2) of this clause, for each calendar year covered by this contract (extending through final payment) if the calendar year commenced after the end of a Government fiscal year in which the Contractor was awarded one or more DoD contracts aggregating $10 million or more. In multidivisional corporations, the corporate headquarters, and each segment which contracts directly with the Government, shall report separately. Each report shall list those persons employed or otherwise compensated, who are former DoD employees who left service on or after April 16, 1987, if—

(i) They were compensated by the Contractor during the reporting period; and

(ii) The compensation was provided within 2 years after the person left service in the DoD.

(2) The report shall contain:

(i) Each person's name and the agency in which the person was employed or served on active duty during the last 2 years of service with DoD;

(ii) Each person's job title(s) during the last 2 years of service with DoD, and a list of major defense systems on which each person performed any work;

(iii) A complete description (exclusive of proprietary information) of any work that each person is performing, or did perform, on behalf of the Contractor during the calendar year covered by the report. If the work is classified, the Contractor may use a generalized description which will not compromise its classified nature;

(iv) An identification of each major defense system on which each individual has performed any work on behalf of the Contractor.

(3) Submit each report not later than April 1 of the year following the end of the calendar year for which the report is being made. Send reports to the Office of the Assistant General Counsel (Legal Counsel), Standards of Conduct Office, ATTN: OAGC/LC, Pentagon, Washington, DC 20301-1600.

(4) A properly executed DD Form 1787 (Employment, Report of DoD and Defense Related) may be submitted to satisfy the reporting requirement as to any single person.

(5) The Contractor need not submit duplicate reports to the Government. Submission of a report meeting the requirements of this clause, under another, concurrent contract with DoD will satisfy the reporting requirement of this contract.

(d) Penalties for failure to comply.

(1) *Civil fines.* A Contractor who knowingly offers or provides any compensation to a former DoD official in violation of the statute, and who knew or should have known that the acceptance of such compensation would be in violation of such statute, shall be subject to a civil fine, not to exceed $500,000.

(2) *Liquidated damages.* (i) For each knowing violation of the statutory prohibition on providing compensation, the Contractor agrees to pay to the Government as liquidated damages the greater of either $100,000, or three times the total amount of compensation paid by the Contractor to the former DoD official during the period in which such compensation was in violation of the statutory prohibition.

(ii) Liability for liquidated damages under this clause survives final payment under this contract and may be recouped against payments due under other contracts with the Contractor.

(iii) Liquidated damages will be computed based upon the number of actual violations by the Contractor, and not on the number of contracts in which this clause appears.

(3) *Administrative penalty.* If the Contractor knowingly fails to file a report in accordance with paragraph (c) of this clause, the Contractor shall be subject to an administrative penalty not to exceed $10,000. The final determination of the penalty to be charged to the Contractor shall be made by the Secretary of Defense or designee after the Contractor is afforded an opportunity for an agency hearing on the record in accordance with agency hearing procedures. The Secretary's determination shall form a part of the record and shall be subject to judicial review under chapter 7 of title 5, United States Code.

(e) The rights and remedies under this clause are in addition to, and do not limit, any rights afforded the Government under this contract or as otherwise provided by law.

(End of clause)

18. Section 252.203–7001 is revised to read as follows:

252.203–7001 Special Prohibition on Employment.

As prescribed in 203.570–5, use the following clause:

Special Prohibition on Employment (FEB 1991)

(a) Definitions.

As used in this clause—

Arising out of a contract with the DoD means any act in connection with—

(1) Attempting to obtain,

(2) Obtaining, or

(3) Performing a contract or subcontract of any agency, department, or component of the Department of Defense (DoD).

Conviction of fraud or any other felony means any conviction for fraud or a felony in violation of state or Federal criminal statutes, whether entered on a verdict or plea, including a plea of *nolo contendere*, for which sentence has been imposed.

Date of conviction means the date judgment was entered against the individual.

(b) 10 U.S.C. 2408 provides that any individual who is convicted after September 29, 1988, of fraud or any other felony arising out of a contract with the DoD is prohibited from:

(1) Working in a management or supervisory capacity on any DoD contract;

(2) Serving on the board of directors of any DoD contractor; or

(3) Serving as a consultant to any DoD contractor.

(c) Unless waived, the prohibition in paragraph (b) of this clause applies for 5 years from the date of conviction.

(d) 10 U.S.C. 2408 further provides that a defense contractor shall be subject to a criminal penalty of not more than $500,000 if the contractor is convicted of knowingly—

(1) Employing a person under a prohibition specified in paragraph (b) of this clause; or

(2) Allowing such a person to serve on the board of directors of the contractor.

(e) In addition to the criminal penalties contained in 10 U.S.C. 2408, the Government may consider other available remedies, such as—

(1) Suspension or debarment;

(2) Cancellation of the contract at no cost to the Government; or

(3) Termination of the contract for default.

(f) The Contractor may submit written requests for waiver of the prohibitions in paragraph (b) to the Contracting Officer. Requests shall clearly identify—

(1) The person involved;

(2) The nature of the conviction and resultant sentence or punishment imposed;

(3) The reasons for the requested waiver; and,

(4) An explanation of why a waiver is in the interest of national security.

(g) The Contractor agrees to include the substance of this clause, including this paragraph (g), appropriately modified to reflect the identity and relationship of the parties, in all subcontracts exceeding $25,000.

(End of clause)

19. Section 252.203–7003 is redesignated as section 252.203–7002 and revised to read as follows:

252.203–7002 Display of DoD Hotline Poster.

As prescribed in 203.7002, use the following clause:

Display of DoD Hotline Poster (FEB 1991)

(a) The Contractor shall display prominently in common work areas within business segments performing work under Department of Defense (DoD) contracts, DoD Hotline Posters prepared by the DoD Office of the Inspector General.

(b) DoD Hotline Posters may be obtained from the DoD Inspector General, ATTN: Defense Hotline, 400 Army Navy Drive, Washington, DC 22202–2884.

(c) The Contractor need not comply with paragraph (a) of this clause if it has established a mechanism, such as a hotline, by which employees may report suspected instances of improper conduct, and instructions that encourage employees to make such reports.

(End of clause)

20. Section 252.219–7000 is revised to read as follows:

252.219–7000 Small Business and Small Disadvantaged Business Subcontracting Plan (DoD Contracts).

As prescribed in 219.708(b), use the following clause:

Small Business and Small Disadvantaged Business Subcontracting Plan (DoD Contracts) (FEB 1991)

This clause supplements the FAR 52.219–9, Small Business and Small Disadvantaged Business Subcontracting Plan, clause of this contract.

(a) Definitions.

Historically black colleges and universities, as used in this clause, means institutions determined by the Secretary of Education to meet the requirements of 34 CFR 608.2.

Minority institutions, as used in this clause, means institutions meeting the requirements of paragraphs (3), (4), and (5) of section 312(b) of the Higher Education Act of 1965 (20 U.S.C. 1058). The term also means any nonprofit research institution that was an integral part of a historically black college or university before November 14, 1986.

(b) Except for company or division-wide commercial products subcontracting plans, the term "small disadvantaged business," when used in the FAR 52.219–9 clause, includes historically black colleges and universities and minority institutions, in addition to small disadvantaged business concerns.

(c) Work under the contract or its subcontracts shall be credited toward meeting the small disadvantaged business concern goal required by paragraph (d) of the FAR 52.219 clause when:

(1) It is performed on Indian lands or in joint venture with an Indian tribe or a tribally owned corporation, and

(2) It meets the requirements of Section 832 of the FY 90 DoD Authorization Act, Pub. L. 101–189.

(d) The master plan approval referred to in paragraph (f) of the FAR 52.219–9 clause is approval by the contractor's cognizant contract administration activity.

(End of clause)

252.219–7001 through 252.219–7003 [Removed]

21. Sections 252.219–7001 through 252.219–7003 are removed.

22. Section 252.219–7005 is redesignated as section 252.219–7001 and revised to read as follows:

252.219-7001 Small Disadvantaged Business Concern Representation (DoD Contracts).

As prescribed in 219.304(b), use the following provision:

Small Disadvantaged Business Concern Representation (DoD Contracts) (FEB 1991)

(a) Definition.

Small disadvantaged business concern, as used in this provision, means a small business concern, owned and controlled by individuals who are both socially and economically disadvantaged, as defined by the Small Business Administration at 13 CFR part 124, the majority of earnings of which directly accrue to such individuals. This term also means a small business concern owned and controlled by an economically disadvantaged Indian tribe or Native Hawaiian organization which meets the requirements of 13 CFR 124.112 or 13 CFR 124.113, respectively. In general, 13 CFR part 124 describes a small disadvantaged business concern as a small business concern—

(1) Which is at least 51 percent unconditionally owned by one or more socially and economically disadvantaged individuals; or

(2) In the case of any publicly owned business, at least 51 percent of the voting stock is unconditionally owned by one or more socially and economically disadvantaged individuals; and

(3) Whose management and daily business operations are controlled by one or more such individuals.

(b) Representations.

Check the category in which your ownership falls—

____Subcontinent Asian (Asian-Indian) American (U.S. citizen with origins from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, or Nepal)

____Asian-Pacific American (U.S. citizen with origins from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, U.S. Trust Territory of the Pacific Islands (Republic of Palau), the Northern Mariana Islands, Laos, Kampuchea (Cambodia), Taiwan, Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Republic of the Marshall Islands, or the Federated States of Micronesia)

____Black American (U.S. citizen)

____Hispanic American (U.S. citizen with origins from South America, Central America, Mexico, Cuba, the Dominican Republic, Puerto Rico, Spain, or Portugal)

____Native American (American Indians, Eskimos, Aleuts, or Native Hawaiians, including Indian tribes or Native Hawaiian organizations)

____Individual/concern, other than one of the preceding, currently certified for participation in the Minority Small Business and Capital Ownership Development Program under Section 8(a) of the Small Business Act

____Other

(c) Certifications.

Complete the following—

(1) The offeror is____is not____a small disadvantaged business concern.

(2) The Small Business Administration (SBA) has____has not____made a determination concerning the offeror's status as a small disadvantaged business concern. If the SBA has made a determination, the date of the determination was_____and the offeror—

____Was found by SBA to be socially and economically disadvantaged and no circumstances have changed to vary that determination.

____Was found by SBA not to be socially and economically disadvantaged but circumstances which caused the determination have changed.

(d) Notification.

Notify the Contracting Officer before contract award if your status as a small disadvantaged business concern changes.

(e) Penalties and Remedies.

Anyone who misrepresents the status of a concern as a small disadvantaged business for the purpose of securing a contract or subcontract shall—

(1) Be punished by imposition of a fine, imprisonment, or both;

(2) Be subject to administrative remedies, including suspension and debarment; and

(3) Be ineligible for participation in programs conducted under authority of the Small Business Act.

(End of provision)

23. Section 252.219–7006 is redesignated as section 252.219–7002 and revised to read as follows:

252.219–7002 Notice of Small Disadvantaged Business Set-Aside.

As prescribed in 219.508–70, use the following clause:

Notice of Small Disadvantaged Business Set-Aside (FEB 1991)

(a) Definition.

Small disadvantaged business concern, as used in this clause, means a small business concern, owned and controlled by individuals who are both socially and economically disadvantaged, as defined by the Small Business Administration at 13 CFR part 124, the majority of eanings of which directly accrue to such individuals. This term also means a small business concern owned and controlled by an economically disadvantaged Indian tribe or Native Hawaiian organization which meets the requirements of 13 CFR 124.112 or 13 CFR 124.113, respectively.

(b) General.

Offers are solicited only from small disadvantaged business concerns. Offers received from concerns that are not small disadvantaged businesses are nonresponsive and will be rejected.

(c) Agreement.

A small disadvantaged business manufacturer or regular dealer, which submits an offer in its own name, agrees to furnish in performing this contract only end items manufactured or produced by small disadvantaged business concerns in the United States, its territories and possessions, the Commonwealth of Puerto Rico, the U.S. Trust Territory of the Pecific Islands, or the District of Columbia.

(End of clause)

Alternate I (FEB 1991)

As prescribed in 219.508–70, substitute the following paragraph (c) for paragraph (c) of the basic clause:

(c) Agreement.

A small disadvantaged business regular dealer submitting an offer in its own name agrees to furnish in performing this contract only end items manufactured or produced by small business concerns in the United States, its territories and possessions, the Commonwealth of Puerto Rico, the U.S. Trust Territory of the Pacific Islands, or the District of Columbia.

24. Section 252.219–7007 is redesignated as section 252.219–7003 and revised to read as follows:

252.219–7003 Notice of Evaluation Preference for Small Disadvantaged Business Concerns.

As prescribed in 219.7003, use the following clause:

Notice of Evaluation Preference for Small Disadvantaged Business Concerns (FEB 1991)

(a) Definitions.

Historically black colleges and universities, as used in this clause, means institutions determined by the Secretary of Education to meet the requirements of 34 CFR 608.2.

Minority institutions, as used in this clause, means institutions meeting the requirements of paragraphs (3), (4), and (5) of section 312(b) of the Higher Education Act of 1965 (20 U.S.C. 1058). The term also means any nonprofit research institution that was an integral part of a historically black college or university before November 14, 1986.

Small disadvantaged business concern, as used in this clause, means a small business concern, owned and controlled by individuals who are both socially and economically disadvantaged, as defined by the Small Business Administration at 13 CFR part 124, the majority of earnings of which directly accrue to such individuals. This term also means a small business concern owned and controlled by an economically disadvantaged Indian tribe or Native Hawaiian organization which meets the requirements of 13 CFR 124.112 or 13 CFR 124.113, respectively.

(b) Evaluation preference.

(1) Offers will be evaluated by adding a factor of ten percent to the price of all offers, except—

(i) Offers from small disadvantaged business concerns;

(ii) Offers from historically black colleges and universities or minority institutions;

(iii) Offers of—

(A) Eligible products under the Trade Agreements Act when the dollar threshold for application of the Act is exceeded;

(B) Qualifying country end products; and

(C) Offers where application of the factor would be inconsistent with a Memorandum of Understanding or other international agreement with a foreign government.

(2) The ten percent factor will be applied on a line item by line item basis or to any group of items on which award may be made. Other evaluation factors described in the

solicitation will be applied before application of the ten percent factor. The ten percent factor will not be applied if using the preference would cause the contract award to be made at a price which exceeds the fair market price by more than ten percent.

(c) Waiver of evaluation preference.

A small disadvantaged business, historically black college or university, or minority institution offeror may elect to waive the preference, in which case the ten percent factor will be added to its offer for evaluation purposes. The agreements in paragraph (d) of this clause do not apply to offers which waive the preference.

___ Offeror elects to waive the preference

(d) Agreements.

(1) A small disadvantaged business concern, historically black college or university, or minority institution offeror, which did not waive the preference, agrees that in performance of the contract, in the case of a contract for—

(i) Services, except construction, at least 50 percent of the cost of personnel for contract performance will be spent for employees of the concern.

(ii) Supplies, at least 50 percent of the cost of manufacturing, excluding the cost of materials, will be performed by the concern.

(iii) General construction, at least 15 percent of the cost of the contract, excluding the cost of materials, will be performed by employees of the concern.

(iv) Construction by special trade contractors, at least 25 percent of the cost of the contract, excluding the cost of materials, will be performed by employees of the concern.

(2) A small disadvantaged business, historically black college or university, or minority institution regular dealer submitting an offer in its own name agrees to furnish in performing this contract only end items manufactured or produced by small disadvantaged business concerns, historically black colleges or universities, or minority institutions in the United States, its territories and possessions, the Commonwealth of Puerto Rico, the U.S. Trust Territory of the Pacific Islands, or the District of Columbia.

(3) Upon request, a historically black college or university or minority institution offeror will provide the Contracting Officer evidence that it has been determined to be an HBCU or MI by the Secretary of Education.

(End of clause)

Alternate I (FEB 1991)

As prescribed in 219.7003, substitute the following paragraph (d)(2) for paragraph (d)(2) of the basic clause:

(d)(2) A small disadvantaged business, historically black college or university, or minority institution regular dealer submitting an offer in its own name agrees to furnish in performing this contract only end items manufactured or produced by small business concerns, historically black colleges or universities, or minority institutions in the United States, its territories and possessions, the Commonwealth of Puerto Rico, the U.S. Trust Territory of the Pacific Islands, or the District of Columbia.

252.219-7004 [Removed]

25. Section 252.219-7004 is removed.

26. Section 252.219-7010 is redesignated as section 252.219-7004 and revised to read as follows:

252.219-7004 Notice of Partial Small Business Set-Aside With Preferential Consideration for Small Disadvantaged Business Concerns.

As prescribed in 219.508(d)(S-70), use the following clause:

Notice of Partial Small Business Set-Aside With Preferential Consideration for Small Disadvantaged Business Concerns (FEB 1991)

(a) Definitions.

Labor surplus area, as used in this clause, means a geographical area identified by the Department of Labor as an area of labor surplus.

Labor surplus area concern, as used in this clause, means a concern that, together with its first tier subcontractors, will perform substantially in labor surplus areas.

Perform substantially in labor surplus areas, as used in this clause, means that the costs incurred under the contract on account of manufacturing, production, and performance of services in labor surplus areas exceed 50 percent of the contract price.

Small business concern, as used in this clause, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the size standards in this solicitation.

Small disadvantaged business concern, as used in this clause, means a small business concern, owned and controlled by individuals who are both socially and economically disadvantaged, as defined by the Small Business Administration at 13 CFR part 124, the majority of earnings of which directly accrue to such individuals. This term also means a small business concern owned and controlled by an economically disadvantaged Indian tribe or Native Hawaiian organization which meets the requirements of 13 CFR 124.112 or 13 CFR 124.113, respectively.

(b) General.

A portion of this requirement, identified elsewhere in this solicitation, has been set-aside for award to one or more small business concerns. After offers for the non-set-aside portion have been evaluated, negotiations will be conducted for the set-aside portion.

(1) Offers on the non-set-aside portion will be evaluated and award made in accordance with the other provisions of this solicitation.

(2) The set-aside portion will be negotiated, in accordance with this clause, with small business concerns which submitted offers on the non-set-aside portion.

(c) Award of the set-aside portion.

(1) Small business offerors on the non-set-aside portion will be selected for negotiation of the set-aside portion based on their standing— first in terms of group and then in terms of lowest responsive offer on the non-set-aside portion.

(i) Group 1—Small disadvantaged business concerns which are also labor surplus area concerns.

(ii) Group 2—Small business concerns which are also labor surplus area concerns.

(iii) Group 3—Other small disadvantaged business concerns.

(iv) Group 4—Other small business concerns.

(2) The set-aside portion will be awarded at the highest unit price(s) in the contract(s) for the non-set-aside portion, adjusted to reflect transportation and other costs appropriate for the selected contractor(s), except—

(i) Award of the set-aside portion to a small disadvantaged business concern will be at the lower of—

(A) The price offered by the concern on the non-set-aside portion; or

(B) A price that does not exceed the award price on the non-set-aside portion by more than ten percent.

(ii) When the highest unit price(s) in the contract(s) is for a foreign end product, the set-aside portion will be awarded at that price as adjusted in evaluating the offer under Buy American procedures.

(iii) Discount terms used in evaluation of the highest non-set-aside award price will apply to the set-aside award price.

(3) If negotiations are not successful for any part of the set-aside portion, the set-aside will be dissolved for that part and the requirement will be resolicited.

(d) Token offers.

The Government reserves the right to not consider token offers or offers designed to secure an unfair advantage over other offerors eligible for the set-aside portion.

(e) Eligibility for preference as a labor surplus area concern.

Small business or small disadvantaged business offerors which claim preference for the set-aside portion as a labor surplus area concern, list the labor surplus area location(s) of offeror or first tier subcontractors, which account for more than 50 percent of the contract price.

Name of Company:

Street Address:

City/County:

State:

(f) Agreements.

(1) If awarded a contract as a small disadvantaged business-labor surplus area concern or as a small business-labor surplus area concern, the offeror—

(i) Will perform the contract, or cause it to be performed, substantially in areas classified as labor surplus areas.

(ii) If the contract is in excess of $25,000, will submit a report to the Contracting Officer within 30 days after award that contains the following information—

(A) The dollar amount of the contract.

(B) Identification of each labor surplus area in which contract and subcontract performance is taking or will take place.

(C) The total costs incurred and to be incurred under the contract in each of the labor surplus areas by the contractor and first tier subcontractors.

(D) The total dollar amount attributable to performance in labor surplus areas.

(2) A manufacturer or regular dealer, which claims preference as a small disadvantaged business and submits an offer in its own name, agrees to furnish in performing this contract only end items manufactured or produced by small disadvantaged business concerns in the United States, its territories and possessions, the Commonwealth of Puerto Rico, the U.S. Trust Territory of the Pacific Islands, or the District of Columbia.

(End of clause)

Alternate I (FEB 1991)

As prescribed in 219.508(d)(S–70), substitute the following paragraph (f)(2) for paragraph (f)(2) of the basic clause:

(f)(2) A regular dealer, which claims preference as a small disadvantaged business and submits an offer in its own name, agrees to furnish in performing this contract only end items manufactured or produced by small business concerns in the United States, its territories and possessions, the Commonwealth of Puerto Rico, the U.S. Trust Territory of the Pacific Islands, or the District of Columbia.

252.219–7008 [Removed]

27. Section 252.219–7008 is removed.

28. Section 252.219–7009 is redesignated as section 252.219–7005 and revised to read as follows:

252.219–7005 Incentive for Subcontracting with Small Businesses, Small Disadvantaged Businesses, Historically Black Colleges and Universities, and Minority Institutions.

As prescribed in 219.708(c)(1), use the following clause:

Incentive for Subcontracting With Small Businesses, Small Disadvantaged Businesses, Historically Black Colleges and Universities, and Minority Institutions (FEB 1991)

(a) If the Contractor exceeds the small disadvantaged business, historically black college and university, minority institution goal of its subcontracting plan, at completion of contract performance, the Contractor will receive (Insert appropriate number between 1 and 10) percent of the excess.

(b) The Contractor will not receive this incentive if the Contracting Officer determines that exceeding the goal was not due to the Contractor's efforts (e.g., a subcontractor cost overrun or award of subcontracts planned but not disclosed in the subcontracting plan). Determinations made under this paragraph are not subject to the Disputes clause.

(c) If this is a cost contract, the limitations in FAR subpart 15.9 may not be exceeded.

(d) This clause does not apply if the subcontracting plan is a plant, division, or company-wide commercial products plan.

(End of clause)

Alternate I (FEB 1991)

As prescribed in 219.708(c)(1), add the following paragraph (b) to the basic clause and renumber the existing paragraphs (b), (c), and (d) as (c), (d), and (e).

(b) If the Contractor exceeds the small business goal of its subcontracting plan, at completion of contract performance, the Contractor will receive (Insert appropriate number between 1 and 10) percent of the excess.

252.219–7011 through 252.219–7014 [Removed]

29. Sections 252.219–7011 through 252.219–7014 are removed.

30. Section 252.219–7015 is redesignated as section 252.219–7006 and revised to read as follows:

252.219–7006 Small Business and Small Disadvantaged Business Subcontracting Plan (Test Program).

As prescribed in 219.708(b)(1), use the following clause:

Small Business and Small Disadvantaged Business Subcontracting Plan (Test Program)(FEB 1991)

(a) Definition.

Subcontract, as used in this clause, means any agreement (other than one involving an employer-employee relationship) entered into by a Federal Government prime Contractor or subcontractor calling for supplies or services required for performance of the contract or subcontract.

(b) The Offeror's comprehensive small business subcontracting plan and its successors, which are authorized by and approved under the test program of Section 834 of Public Law 101–189, shall be included in and made a part of the resultant contract. Upon expulsion from the test program or expiration of the test program, the Contractor shall negotiate an individual subcontracting plan for all future contracts that meet the requirements of Section 211 of Public Law 95–507.

(c) The Contractor shall submit Standard Form 295, Summary Subcontract Report, in accordance with the instructions on the form, except (1) Items 17 and 18 shall not be completed; (2) Item 16, Remarks, shall be completed to include small business and small disadvantaged business goals, actual accomplishments, and percentages and small business and small disadvantaged business goals, actual accomplishments, and percentages for each of the two designated industry categories.

(d) The failure of the Contractor or subcontractor to comply in good faith with (1) the clause of this contract entitled "Utilization of Small Business Concerns and Small Disadvantaged Business Concerns," or (2) an approved plan required by this clause, shall be a material breach of the contract.

(End of clause)

31. Section 252.219–7016 is redesignated as section 252.219–7007 and revised to read as follows:

252.219–7007 Liquidated Damages—Small Business Subcontracting Plan (Test Program).

As prescribed in 219.708(b)(2), use the following clause:

Liquidated Damages—Small Business Subcontracting Plan (Test Program)(Feb 1991)

(a) Definition.

Failure to make a good faith effort to comply with the comprehensive subcontracting plan, as used in this clause, means a willful or intentional failure to perform in accordance with the requirements of the comprehensive subcontracting plan approved under the test program authorized by Section 834 of Public Law 101–189, or willful or intentional action to frustrate the plan.

(b) If, at the close of the fiscal year for which the plan applies or at the close of a subsequent fiscal year for which a successor plan applies, the Contractor has failed to meet its subcontracting goals and the Contracting Officer decides in accordance with paragraph (c) of this clause that the Contractor failed to make a good faith effort to comply with its comprehensive subcontracting plan, the Contractor shall pay the Government liquidated damages in an amount equal to the actual dollar amount by which the Contractor failed to achieve each subcontract goal.

(c) Before the Contracting Officer makes a final decision that the Contractor has failed to make such good faith effort, the Contracting Officer shall give the Contractor written notice specifying the failure and permitting the Contractor to demonstrate what good faith efforts have been made. Failure to respond to the notice may be taken as an admission that no valid explanation exists. If, after consideration of all the pertinent data, the Contracting Officer finds that the Contractor failed to make a good faith effort to comply with the comprehensive subcontracting plan, the Contracting Officer shall issue a final decision to that effect and require that the Contractor pay the Government liquidated damages as provided in paragraph (b) of this clause.

(d) The Contracting Officer of the agency that originally approved the comprehensive subcontracting plan will exercise the functions of the Contracting Officer under this clause on behalf of all Department of Defense departments and agencies that awarded contracts covered by the Contractor's comprehensive subcontracting plan.

(e) The Contractor shall have the right of appeal, under the clause in this contract entitled Disputes, from any final decision of the Contracting Officer.

(f) Liquidated damages shall be in addition to any other remedies that the Government may have.

(End of clause)

252.220–7000 and 252.220–7001 [Removed]

32. Sections 252.220–7000 and 252.220–7001 are removed.

33. Section 252.226–7000 is revised to read as follows:

252.226-7000 Notice of Historically Black College or University and Minority Institution Set-Aside.

As prescribed in 226.7008(a), use the following clause:

Notice of Historically Black College or University and Minority Institution Set-Aside (FEB 1991)

(a) Definitions.

Historically black colleges and universities, as used in this clause, means institutions determined by the Secretary of Education to meet the requirements of 34 CFR 608.2.

Minority institutions, as used in this clause, means institutions meeting the requirements of paragraphs (3), (4), and (5) of Section 312(b) of the Higher Education Act of 1965 (20 U.S.C. 1058). The term also means any nonprofit research institution that was an integral part of a historically black college or university before November 14, 1986.

(b) General.

(1) Offers are solicited only from historically black colleges or universities and minority institutions.

(2) Any award resulting from this solicitation will be made only to an offeror which is a historically black college or university or a minority institution both at the time of submission of its offer and at contract award.

(c) Agreements.

The offeror will—

(1) Perform at least 50 percent of the cost of contract performance incurred for personnel with its own employees; and

(2) Upon request by the Contracting Officer, provide evidence prior to award that the Secretary of Education has determined the offeror to be a historically black college or university or minority institution.

(End of clause)

34. Section 252.226-7001 is revised to read as follows:

252.226-7001 Historically Black College or University and Minority Institution Certification.

As prescribed in 226.7008(b), use the following provision:

Historically Black College or University and Minority Institution Certification. (FEB 1991)

(a) Definitions.

Historically black colleges and universities, as used in this provision, means institutions determined by the Secretary of Education to meet the requirements of 34 CFR 608.2.

Minority institutions, as used in this provision, means institutions meeting the requirements of paragraphs (3), (4), and (5) of Section 312(b) of the Higher Education Act of 1965 (20 U.S.C. 1058). The term also means any nonprofit research institution that was an integral part of a historically black college or university before November 14,1986.

(b) Certification.

The offeror certifies that it is—

_____ A historically black college or university

_____ A minority institution

(c) Notification.

Notify the Contracting Officer before award if your status as a historically black college or university or minority institution changes.

(End of provision)

252.229-7000 [Removed]

35. Section 252.229-7000 is removed.

36. Section 252.231-7000 is revised to read as follows:

252.231-7000 Supplemental Cost Principles.

As prescribed in 231.270, use the following clause:

Supplemental Cost Principles (FEB 1991)

When the allowability of costs under this contract is determined in accordance with subpart 31.2 of the Federal Acquisition Regulation (FAR), allowability shall also be determined in accordance with subpart 231.2 of the Defense FAR Supplement, in effect on the date of this contract.

(End of clause)

37. Section 252.231-7001 is revised to read as follows:

252.231-7001 Penalties for Unallowable Costs.

As prescribed in 231.7004, use the following clause:

Penalties for Unallowable Costs (FEB 1991)

(a) Contractors which include unallowable costs in a final indirect cost rate proposal or any other proposal that includes incurred and accrued indirect costs are subject to assessment of penalties. The penalties are prescribed in 10 U.S.C. 2324, which is implemented in subpart 231.70 of the Defense FAR Supplement.

(b) The Contractor shall not include in any proposal any cost which is unallowable as defined in FAR part 31.

(c) If the Contracting Officer determines by clear and convincing evidence that a cost submitted by the Contractor in its proposal is unallowable, the Contractor shall be assessed a penalty equal to—

(1) The amount of the disallowed cost allocated to this contract; plus

(2) Simple interest, to be computed—

(i) On the amount the Contractor was paid (whether as a progress or billing payment) in excess of the amount to which the Contractor was entitled.

(ii) Using the applicable rate effective for each 6 month interval prescribed by the Secretary of the Treasury pursuant to Public Law 92-41(85 Stat. 97).

(d) If the Contracting Officer determines that a cost submitted by the Contractor in its proposal includes a cost previously determined to be unallowable for the Contractor, then the Contractor will be assessed an additional penalty in an amount equal to two times the amount of the unallowable cost.

(e) Determinations under (c) and (d) of this clause are final decisions within the meaning of the Contract Disputes Act of 1978 (41 U.S.C. 604, *et seq.*).

(f) The Government is entitled to assess an additional penalty of not more than $10,000 per proposal, if any penalty is assessed under paragraphs (c) or (d) of this clause.

(g) Contractor submission of unallowable costs is also subject to the provisions of 18 U.S.C. 287 and 31 U.S.C. 3729.

(h) Payment by the Contractor of any penalty assessed under this clause does not constitute repayment to the Government of any unallowable cost which has been paid by the Government to the Contractor.

(End of clause)

252.231-7002 [Removed]

38. Section 252.231-7002 is removed.

39. Section 252.233-7000 is revised to read as follows:

252.233-7000 Certification of Claims and Requests for Adjustment or Relief.

As prescribed in 233.7000, use the following clause:

Certification of Claims and Requests for Adjustment or Relief (FEB 1991)

(a) Any contract claim, request for equitable adjustment to contract terms, request for relief under Public Law 85-804, or other similar request exceeding $100,000 shall bear, at the time of submission, the following certificate given by a senior company official in charge at the plant or location involved:

I certify that the claim is made in good faith, that the supporting data are accurate and complete to the best of my knowledge and belief; and that the amount requested accurately reflects the contract adjustment for which the Contractor believes the Government is liable.

_____

(Official's Name)

_____

(Title)

(b) The certification in paragraph (a) of this clause requires full disclosure of all relevant facts, including cost and pricing data.

(c) The certification requirement in paragraph (a) of this clause does not apply to:

(1) Requests for routine contract payments; for example, those for payment for accepted supplies and services, routine vouchers under cost-reimbursement type contracts, and progress payment invoices; or

(2) Final adjustments under incentive provisions of contracts.

(d) In those instances where the claim arises as a result of a contract dispute, a single certification, using the language prescribed by the Contract Disputes Act but signed by a senior company official in charge at the plant or location involved, will satisfy the certification requirements of both this clause and Section 6(c) of the Contract Disputes Act, Pub. L. 95-563.

(e) If this is a request for equitable adjustment under a substantially completed contract or a completed contract, the certification will be expanded to include the following:

This claim includes only costs for performing the alleged change, and does not include any costs which have already been reimbursed or which have been separately claimed. All indirect costs claimed are properly allocable to the alleged change in

accordance with applicable acquisition regulations. I am aware that the submission of a false claim to the Government can result in the assessment of significant penalties and fines, and that no proof of specific intent to defraud is required in either a civil or criminal prosecution for the submission of a false claim.

(End of clause)

40. Section 252.243–7000 is revised to read as follows:

252.243–7000 Engineering Change Proposals.

As prescribed in 243.205–70, use the following clause:

Engineering Change Proposals (FEB 1991)

(a) The Contracting Officer may ask the Contractor to prepare engineering change proposals for engineering changes within the scope of this contract. Upon receipt of a written request from the Contracting Officer, the Contractor shall prepare and submit an engineering change proposal in accordance with the instructions of _____*.

(b) The Contractor may initiate engineering change proposals. Contractor initiated engineering change proposals shall include a "not to exceed" price** or a "not less than" price** and delivery adjustment. If the Contracting Officer orders the engineering change, the increase shall not exceed nor the decrease be less than the "not to exceed" or "not less than" amounts***.

(c) When the price** of the engineering change is $100,000 or more, the Contractor shall submit

(1) A completed SF 1411, Contract Pricing Proposal Cover Sheet, and

(2) At the time of agreement on price**, a signed Certificate of Current Cost or Pricing Data.

(End of clause)

Alternate I (FEB 1991)

As prescribed in 243.205–70, add the following paragraph (d) to the basic clause:

(d) If the price** of a Contractor initiated engineering change is _____**** or less, the change, if ordered, shall be made at no adjustment in the contract price**.

*Insert MIL–STD–480 or MIL–STD–481.

**Use a term suitable for the type of contract.

***In cost reimbursement type contracts, replace this sentence with the following: "Change orders issued under the Changes clause of this contract are not an authorization to exceed the estimated cost in the schedule unless there is a statement in the change order, or other contract modification, increasing the estimated cost."

****Insert a percentage of the contract price or a dollar amount.

41. Section 252.243–7001 is revised to read as follows:

252.243–7001 Pricing of Contract Modifications.

As prescribed in 243.205–71, use the following clause:

Pricing of Contract Modifications (FEB 1991)

When costs are a factor in any price adjustment under this contract, the contract cost principles and procedures in FAR part 31 and DFARS part 231, in effect on the date of this contract, apply.

(End of clause)

42. Section 252.248–7000 is added to part 252 to read as follows:

252.248–7000 Preparation of Value Engineering Change Proposals.

As prescribed in 248.270, use the following clause and insert either "MIL–STD–480" or "MIL–STD–481 (Short form)" in the blank:

Preparation of Value Engineering Change Proposals (FEB 1991)

Prepare value engineering change proposals, for submission pursuant to the value engineering clause of this contract, in the format prescribed by the latest version of _____.

(End of clause)

43. Section 252.251–7000 is revised to read as follows:

252.251–7000 Ordering From Government Supply Sources.

As prescribed in 251.107, use the following clause:

Ordering From Government Supply Sources (FEB 1991)

(a) When placing orders under Federal Supply Schedules or Personal Property Rehabilitation Price Schedules, the Contractor shall follow the terms of the applicable schedule and authorization. Include in each order:

(1) A copy of the authorization (unless a copy was previously furnished to the Federal Supply Schedule or Personal Property Rehabilitation Price Schedule contractor).

(2) The following statement:

This order is placed under written authorization from _____ dated _____.

In the event of any inconsistency between the terms and conditions of this order and those of your Federal Supply Schedule contract or Personal Property Rehabilitation Price Schedule contract, the latter will govern.

(3) The completed address(es) to which the Contractor's mail, freight, and billing documents are to be directed.

(b) If a Federal Supply Schedule contractor refuses to honor an order placed by a Government contractor under an agency authorization, the Contractor shall report the circumstances to the General Services Administration, FFN, Washington, DC 20406, with a copy to the authorizing office.

(c) When placing orders under nonmandatory schedule contracts and requirements contracts, issued by the General Services Administration (GSA) Office of Information Resources Management, for automated data processing equipment, software and maintenance, communications equipment and supplies, and teleprocessing services, the Contractor shall follow the terms of the applicable contract and the procedures in paragraph (a) of this clause.

(d) When placing orders for Government stock, the Contractor shall—

(1) Comply with the requirements of the Contracting Officer's authorization, using FEDSTRIP or MILSTRIP procedures, as appropriate;

(2) Use only the GSA Form 1948–A, Retail Services Shopping Plate, when ordering from GSA Self-Service Stores;

(3) Order only those items required in the performance of Government contracts; and

(4) Pay bills from Government supply sources promptly.

(e) Only the Contractor may request authorization for subcontractor use of Government supply sources. The Contracting Officer will not grant authorizations for subcontractor use without approval of the Contractor.

(End of clause)

44. Section 252.251–7001 is revised to read as follows:

252.251–7001 Use of Interagency Fleet Management System (IFMS) Vehicles and Related Services.

As prescribed in 251.205, use the following clause:

Use of Interagency Fleet Management System (IFMS) Vehicles and Related Services (FEB 1991)

(a) The Contractor, if authorized use of IFMS vehicles, shall submit requests for five or fewer vehicles and related services in writing to the appropriate General Services Administration (GSA) Regional Customer Service Bureau, Attention: Motor Equipment Activity. Submit requests for more than five vehicles to GSA headquarters: General Services Administration, FTM, Washington, DC 20406. Include the following in each request:

(1) Two copies of the agency authorization to obtain vehicles and related services from GSA.

(2) The number of vehicles and related services required and the period of use.

(3) A list of the Contractor's employees authorized to request vehicles and related services.

(4) A list of the makes, models, and serial numbers of Contractor-owned or leased equipment authorized to be serviced.

(5) Billing instructions and address.

(b) The Contractor should make requests for any unusual quantities of vehicles as far in advance as possible.

(c) The Contractor shall establish and enforce suitable penalties for employees who use or authorize the use of Government vehicles for other than performance of Government contracts.

(d) The Contractor shall assume, without the right of reimbursement from the Government, the cost or expense of any use of IFMS vehicles and services not related to the performance of the contract.

(e) Only the Contractor may request authorization for subcontractor use of IFMS vehicles. The Contracting Officer will not grant authorization for subcontractor use without approval of the Contractor.

(End of clause)

Appendix Q to Chapter 2—[Removed]

45. Appendix Q to chapter 2 is removed.

[FR Doc. 90–18759 Filed 8–13–90; 8:45 am]

BILLING CODE 3810-01-M

federal register

Tuesday
August 14, 1990

Part III

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 358

Wart Remover Drug Products for Over-the-Counter Human Use; Final Monograph; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 358

[Docket No. 80N-0238]

RIN 0905-AA06

Wart Remover Drug Products for Over-the-Counter Human Use; Final Monograph

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule in the form of a final monograph establishing conditions under which over-the-counter (OTC) wart remover drug products are generally recognized as safe and effective and not misbranded. FDA is issuing this final rule after considering public comments on the agency's proposed regulation, which was issued in the form of a tentative final monograph, and all new data and information on wart remover drug products that have come to the agency's attention. This final monograph is part of the ongoing review of OTC drug products conducted by FDA.

EFFECTIVE DATE: August 14, 1990.

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

SUPPLEMENTARY INFORMATION: In the Federal Register of October 3, 1980 (45 FR 65609), FDA published, under § 330.10(a)(6) (21 CFR 330.10(a)(6)), an advance notice of proposed rulemaking to establish a monograph for OTC wart remover drug products, together with the recommendations of the Advisory Review Panel on OTC Miscellaneous External Drug Products (Miscellaneous External Panel), which was the advisory review panel responsible for evaluating data on the active ingredients in this drug class. Interested persons were invited to submit comments by January 2, 1981. Reply comments in response to comments filed in the initial comment period could be submitted by February 2, 1981.

In accordance with § 330.10(a)(10), the data and information considered by the Panel were put on display in the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, after deletion of a small amount of trade secret information.

The agency's proposed regulation, in the form of a tentative final monograph, for OTC wart remover drug products was published in the Federal Register of September 3, 1982 (47 FR 39102). Interested persons were invited to file by November 2, 1982, written comments, objections, or requests for oral hearing before the Commissioner of Food and Drugs regarding the proposal. Interested persons were invited to file comments on the agency's economic impact determination by July 27, 1987. New data could have been submitted until March 27, 1988, and comments on the new data until May 27, 1988.

In the Federal Register of March 27, 1987 (52 FR 9992), the agency issued a reproposal of the tentative final monograph for OTC wart remover drug products to reflect new data and information. The agency stated that data and comments submitted in response to the tentative final monograph for OTC wart remover drug products, published in the Federal Register of September 3, 1982 (47 FR 39102), had not yet been evaluated by the agency and that persons who previously submitted data and comments may wish to reevaluate them in light of the reproposed tentative final monograph. Accordingly, the agency stated that data and comments submitted in response to the reproposal as well as data and comments submitted in response to the tentative final monograph published in the Federal Register of September 3, 1982 (47 FR 39102), would be considered by the agency in establishing a final monograph. Interested persons were invited to file by May 26, 1987, written comments, objections, or requests for oral hearing before the Commissioner of Food and Drugs regarding the reproposal. Interested persons were invited to file comments on the agency's economic impact determination by July 27, 1987. New data could have been submitted until March 27, 1988, and comments on the new data until May 27, 1988. Final agency action occurs with the publication of this final monograph, which is a final rule establishing a monograph for OTC wart remover drug products. All data and comments described above are being addressed in this document.

The OTC drug procedural regulations (21 CFR 330.10) now provide that any testing necessary to resolve the safety or effectiveness issues that formerly resulted in a Category III classification, and submission to FDA of the results of that testing or any other data, must be done during the OTC drug rulemaking process before the establishment of a final monograph. Accordingly, FDA is no longer using the terms "Category I" (generally recognized as safe and effective and not misbranded), "Category II" (not generally recognized as safe and effective or misbranded), and "Category III" (available data are insufficient to classify as safe and effective, and further testing is required) at the final monograph stage, but is using instead the terms "monograph conditions" (old Category I) and "nonmonograph conditions" (old Categories II and III).

As discussed in the proposed regulation for OTC wart remover (52 FR 9992) drug products, the agency advised that the conditions under which the drug products that are subject to this monograph will be generally recognized as safe and effective and not misbranded (monograph conditions) will be effective 12 months after the date of publication in the Federal Register. Therefore, on or after August 14, 1991, no OTC drug product that is subject to the monograph and that contains a nonmonograph condition, i.e., a condition that would cause the drug to be not generally recognized as safe and effective or to be misbranded, may be initially introduced or initially delivered for introduction into interstate commerce unless it is the subject of an approved application. Further, any OTC drug product subject to this monograph that is repackaged or relabeled after the effective date of the monograph must be in compliance with the monograph regardless of the date the product was initially introduced or initially delivered for introduction into interstate commerce. Manufacturers are encouraged to comply voluntarily with the monograph at the earliest possible date.

In response to the proposed rule on OTC wart remover drug products, four manufacturers and one medical professional submitted comments. No requests for oral hearing before the Commissioner were received. Copies of the comments received are on public display in the Dockets Management Branch. Any additional information that has come to the agency's attention since publication of the proposed rule is also on public display in the Dockets Management Branch (address above).

All "OTC Volumes" cited throughout this document refer to the submissions made by interested persons pursuant to the call-for-data notices in the Federal Register of November 16, 1973 (38 FR 31697) and August 27, 1975 (40 FR 38179) or to additional information that has come to the agency's attention since publication of the notice of proposed rulemaking. The volumes are on public

display in the Dockets Management Branch.

I. the Agency's Conclusions on the Comments

1. One comment applauded the reproposal of the tentative final monograph for its clarity, brevity, correctness, and the simple and reasonable definition for a "collodion-like" vehicle. The comment stated that clarification of this definition has been long needed. The comment concluded by saying that the proposed monograph in its present form is a paradigm of clear-thinking and careful rulemaking one likes to see coming from FDA.

2. One comment contended that OTC drug monographs are interpretive, as opposed to substantive, regulations. The comment referred to statements on this issue submitted earlier to other OTC drug rulemaking proceedings.

The agency addressed this issue in paragraphs 85 through 91 of the preamble to the procedures for classification of OTC drug products, published in the Federal Register of May 11, 1972 (37 FR 9464); in paragraph 3 of the preamble to the tentative final monograph for antacid drug products, published in the Federal Register of November 12, 1973 (38 FR 31260). FDA reaffirms the conclusions stated in those documents. Court decisions have confirmed the agency's authority to issue substantive regulations by rulemaking. (See, e.g., *National Nutritional Foods Association* v. *Weinberger*, 512 F.2d 688, 696–98 (2d Cir. 1975) and *National Association of Pharmaceutical Manufacturers* v. *FDA*, 487 F. Supp. 412 (S.D.N.Y. 1980), *aff'd*, 637 F.2d 887 (2d Cir. 1981).)

3. One comment expressed pleasure that the agency had expanded the concentration range and dosage form for salicylic acid to 12 to 40 percent in a plaster vehicle. Another comment supported the agency's Category I classification of salicylic acid at a 15-percent concentration in a plaster or collodion-like vehicle.

4. One comment stated that there were rumors that the combination of 16.7 percent salicylic acid and 16.7 percent lactic acid would be approved as a wart remover product for OTC human use. The comment contended that this would be a serious error because the potency of such a combination makes it necessary to restrict it to prescription use only.

After reviewing two studies that involved a combination product containing salicylic acid 16.7 percent and lactic acid 16.7 percent in flexible collodion and a third study that involved a combination product containing salicylic acid 5 percent and lactic acid 5 percent in flexible collodion, the Panel concluded that the lactic acid does not contribute greatly to the effectiveness of the combination and that salicylic acid is the active keratolytic ingredient (45 FR 65609 at 65617). The Miscellaneous External Panel placed this combination in Category III for effectiveness and concluded that data were needed to demonstrate that lactic acid contributes to the increased effectiveness of the combination over that of salicylic acid alone.

The agency agreed with the Panel's conclusions in the tentative final monograph for OTC wart remover drug products (47 FR 39102 at 39103). Following publication of that document on September 3, 1982, no additional data were received to support the combination of salicylic acid 5 to 17 percent and lactic acid 5 to 17 percent. Therefore, this combination is not included in the final monograph. (See also comment 8 below.)

5. One comment supported the reproposed tentative final monograph classification of 15 percent salicylic acid in a plaster or collodion-like vehicle as a Category I wart remover ingredient. The comment stated that its product, which contains 15 percent salicylic acid in a hydroscopic karaya gum pad with polypropylene backing, appears to comply with the reproposed monograph and should be marketable without new drug application (NDA) clearance. The product's labeling described the adhesive pad as being composed of natural nonsensitizing karaya, polyethylene glycol-300 U.S.P., propylene glycol U.S.P. and quaternium-15 and called the product a transdermal deliver system (Ref. 1).

The agency agrees that this product meets the definition of a plaster vehicle in § 358.103(c) of this final rule but finds that the product is not a transdermal delivery system. Transdermal delivery systems, such as those used to administer scopolamine, clonidine, estradiol, or nitroglycerin, are applied to the skin and the drug is absorbed continuously through the skin into the systematic circulation to provide therapeutic serum levels (Ref. 2). The comment's own labeling statements (e.g., the delivery systems provides for a more steady release of the drug into the stratum corneum, and the drug's activity appears to be due to a keratolytic action which results in mechanical removal of stratum corneum cells infected with the papilloma virus) argue against a transdermal designation because systemic absorption does not occur and the clinical effect is not a systemic one. The pharmacological activity results from a keratolytic action that leads to mechanical removal of stratum corneum cells infected with the papilloma virus in the same manner as other products subject to this rulemaking. After this comment was submitted, the company was informed (in a pending NDA for this product) that the reference to a transdermal wart removal system should not be included in the product's labeling (Ref. 3). Accordingly, it is not necessary to proceed with approval of the NDA. However, in order to be marketed OTC in accordance with this final monograph, the product must comply with these labeling provisions and not be labeled a transdermal delivery system. (See comment 13 below, for additional discussion of labeling.)

References

(1) Comment No. C00007, Docket No. 80N–0238, Dockets Management Branch.

(2) "Physicians' Desk Reference," 44th Edition, Medical Economics Company, Inc., Oradell, NJ, pp. 685–686, 853–856, 2042, 2070–2071, and 2181–2182, 1990.

(3) Letter from E. Tabor, FDA, to J. Neveaux, Minnetonka, Inc., dated March 7, 1988, included in OTC Volume 16CFM, Docket No. 80N–0238, Dockets Management Branch.

6. One comment asked about the future of a product containing 17 percent salicylic acid in a collodion-like vehicle that it claimed fits the definition of an OTC wart remover but is currently being marketed as a prescription product. Contending that advertisements for the product strongly suggest that it contains lactic acid as well as salicylic acid, the comment stated that marketing of this product has been particularly confusing for physicians.

The agency is aware that the product referred to by the comment is currently being marketed as a prescription product. However, there is no indication from the current or previous labeling (Refs. 1, 2, and 3) that this product also contains lactic acid. The agency is not aware of any advertisements that state or strongly suggest that the product contains lactic acid, and the comment did not provide any examples of advertisements to support its contention. The agency also is not aware that this product's marketing has been particularly confusing to physicians, and the comment did not provide any evidence to support its position.

Similar products can be marketed both prescription and OTC before a final monograph becomes effective. The agency will examine the labeling of this

product when the monograph becomes effective and determine the product's status at that point as part of normal compliance activity following establishment of a final monograph. Any necessary regulatory action will be considered at that time.

References

(1) "Physicians' Desk Reference," 44th Ed., Medical Economics Co., Inc., Oradell, NJ, pp. 998–999, 1990.

(2) "Physicians' Desk Reference," 43d Ed., Medical Economics Co., Inc., Oradell, NJ, p. 986, 1989.

(3) "Physicians' Desk Reference," 42d Ed., Medical Economics Co., Inc., Oradell, NJ, p. 997, 1988.

7. One manufacturer submitted new data on 17 percent salicylic acid in what it described as a polyacrylic film vehicle. The data are from a multi-center, double-blind, controlled clinical trial to evaluate the safety and effectiveness of 17 percent salicylic acid in this polyacrylic film vehicle versus the polyacrylic film vehicle without the active ingredient (Ref. 1). Subsequently, the manufacturer submitted additional information stating that the polyacrylic vehicle is already classified in Category I in the tentative final monograph (Ref. 2). The manufacturer explained that its vehicle contained pyroxylin (nitrocellulose), volatile solvents (alcohol and toluene), and a plasticizer (acrylates copolymer), and the vehicle meets the description of flexible collodion contained in the Miscellaneous External Panel's report (45 FR 65609 at 65612). The manufacturer added that all ingredients but one (polyester resin) are listed in the Cosmetic, Toiletry and Fragrance Association's Cosmetic Ingredient Dictionary, and that polyester resin is composed of trimellitic anhydride, adipic acid, neopentyl glycol, and cyclohexane dimethanol 70 percent in normal butyl acetate. The manufacturer also stated that polyester resin is a component of a number of widely used commercially available nail polishes (Ref. 3).

Subsequently, additional data were obtained for a total of 62 subjects, of which 59 were acceptable for efficacy evaluation (Refs. 1 and 4). Subjects were divided on a random basis to either the active treatment group (30 subjects) or the vehicle treatment group (29 subjects). Treatments were blinded to both the subjects and investigators. The subjects were instructed to soak each wart with warm water for at least 5 minutes, to dry the area thoroughly, and then paint the surface of the wart. Subjects were advised to discontinue use if excessive irritation occurred. At the initial visit, a description of each wart's location, size, and thickness was made. At each follow-up visit (weeks 2 and 3), the size and thickness of each wart were determined and compared to baseline values. Additionally, at each follow-up visit, each wart's response to medication was assessed as cured, resolving, same (failures), or worse. For the 30 subjects who received active drug treatment for 3 weeks, 9 (30 percent) were rated as cured, 12 (40 percent) were rated as resolving, 9 (30 percent) were rated as same, and 0 were rated as worse. For the 29 subjects who received placebo for 3 weeks, 1 (3 percent) was rated as cured, 4 (14 percent) were rated as resolving, 23 (79 percent) was rated as same, and 1 (3 percent) was rated as worse. Differences in mean wart areas from baseline to week 3 were not statistically significant, but differences in mean wart thicknesses was statistically signficant for the active medication group ($p < 0.01$).

None of the subjects experienced an adverse reaction severe enough to be taken out of the study. Only 3 adverse reactions were reported—all in the active medication group. One subject manifested red and raw areas of a mild degree surrounding treated warts, which lasted for 2 days. Another subject was being treated for five warts, one of which kept breaking open during therapy and manifested a moderate amount of bleeding for 3 to 4 days. The investigator reported that this reaction had an unknown etiology, but discontinued treating that one wart. The third subject complained of a mild burning and itching in interdigital areas for about 15 minutes during 1 day of treatment. Etiology was unknown and study medication was continued.

The agency has evaluated the manufacturer's vehicle described above and determined that it meets the definition of a "collodion-like vehicle" included in § 358.103(b) of this final monograph. The Panel designated collodion as the vehicle for liquid wart remover drug products containing salicylic acid (45 FR 65609 at 65618). Collodion is an official article in the United States Pharmacopeia (U.S.P.) (Ref. 5). The Panel noted that salicylic acid used in the treatment of warts is usually formulated in flexible collodion, which contains pyroxylin (a nitrocellulose derivative), volatile solvents (ether, acetone, or alcohol), and plasticizers (camphor and castor oil) (45 FR 65612). Flexible collodion is also an official article in the U.S.P. (Ref. 5).

In the tentative final monograph for OTC corn and callus remover drug products, the agency noted that, in addition to collodion and flexible collodion, some formulations contain other inactive ingredients or varying amounts of solvent which provide for increased spreadability and increased pliability of the product after it dries on the skin (52 FR 5412 at 5414). The agency proposed the term "collodion-like" instead of "collodion" in specifying the vehicle for liquid formulations containing salicylic acid and defined "collodion-like" as follows: "A solution containing pyroxylin (nitrocellulose) in an appropriate nonaqueous solvent that leaves a transparent cohesive film when applied to the skin in a thin layer." The agency also proposed this same definition for salicylic acid used in liquid formulations as OTC wart remover drug products (52 FR 9992 at 9993).

The manufacturer's vehicle in the salicylic acid product used in the clinical trial described above contains pyroxylin (nitrocellulose) in a nonaqueous solvent that leaves a transparent cohensive film when applied to the skin. The vehicle also contains a plasticizer as does flexible collodion. The agency has determined that the clinical trial described above shows that salicylic acid in this vehicle is effective and the vehilce does not cause adverse reactions that would cause it to be considered unsafe. Further, the vehicle is a common nail polish formulation (Refs. 3 and 6), which the agency considers to be safe. Thus, the agency concludes that 17 percent salicylic acid in the manufacturer's vehicle is generally recognized as safe and effective as an OTC wart remover drug product when labeled according to the conditions of this final monograph.

References

(1) Comment No. RPT, Docket No. 80N–0238, Dockets Management Branch.

(2) Comment No. C00003, Docket No. 80N–0238, Dockets Management Branch.

(3) Formulation for Nail Polish Tevco Vehicle #32403, identified as Exhibit #25d, February 26, 1985, included in OTC Volume 16CFM, Docket No. 80N–0238, Dockets Management Branch.

(4) "Supplemental Efficacy Data for Study 83–07" identified as Exhibit #21, dated February 26, 1985, included in OTC Volume 16CFM, Docket No. 80N–0238, Dockets Management Branch.

(5) "United States Pharmacopeia XXII—National Formulary XVII," United States Pharmacopeial Convention, Inc., Rockville, MD, p. 353, 1989.

(6) Memorandum of Telephone Conversation between K. Freeman, FDA, and J. Wenninger, FDA, is included in OTC Volume 16CFM, Docket No. 80N–0238, Dockets Management Branch.

8. One comment requested that lactic acid be considered an inactive

ingredient rather than as an active ingredient in OTC wart remover drug products. The comment asked that § 358.110 of the tentative final monograph be rewritten to include the phrase "or in a lactic acid collodion vehicle" as follows: "The active ingredient and its concentration in the product is as follows: salicylic acid 5 to 17 percent in a collodion vehicle or in a lactic acid collodion vehicle." Alternatively, the comment requested that the phrase "in a collodion vehicle" not be included in § 358.110 of the final monograph.

The comment contended that "lactic acid (5 to 17 percent) when added to salicylic acid (5 to 17 percent) in a collodion base results in a drug formulation of better quality than the same formulation without the salicylic acid." The comment explained that a topical collodion vehicle containing a therapeutically active ingredient must have three primary characteristics: (1) Act as a protective agent to the drug, (2) adhere to the skin after its solvent has evaporated, and (3) retain a residual nonvolatile liquid content sufficient to enable the active ingredient to retain enough solubility to permit molecular transfer into the skin. The comment further explained that when salicylic acid alone is dissolved in flexible collodion and applied to the skin, a dry film is created as a result of evaporation, causing poor adhesion of the salicylic acid as well as inefficient drug mobility. The comment stated that it has found that including 15 to 20 percent lactic acid in the product will overcome these deficiencies because lactic acid satisfies the following criteria: (1) Its oil/water solubility characteristics permit improved adhesion of the drug to the skin, and (2) lactic acid does not evaporate from the film. The comment also stated that the solubility of salicylic acid in lactic acid is 3 percent, so that the lactic acid remains saturated with salicylic acid throughout the treatment period, with sufficient solubility for efficient molecular transfer into the skin.

In further support of lactic acid's enhancement of adhesion of salicylic acid in collodion, the comment cited an unpublished in-vitro study carried out with salicylic acid collodion preparations containing 18.7 percent salicylic acid and varying amounts of lactic acid in order to demonstrate the concentration of lactic acid which would be most beneficial to the finished product (Ref. 1). Based on visual evaluation of adhesion properties, 15 percent lactic acid provided the best adhesive characteristics with a coherent film on the walls of the glass tubes. Concentrations of lactic acid ranging from 0 to 10 percent and from 20 to 25 percent were rated for adhesion as either nil or slight (Ref. 1).

The comment stated that its product contains salicylic acid and lactic acid 16.7 percent each, and flexible collodion 66.6 percent in order to obtain a 1:1:4 weight-to-weight ratio of the acids in the flexible collodion. The comment asserted that lactic acid's safety has been clearly established, citing the Miscellaneous External Panel's report (45 FR 65609 at 65615; October 3, 1980) and the tentative final monograph on OTC wart remover drug products (47 FR 39102 at 39103; September 3, 1982) as support.

The comment stated that the use of lactic acid as an inactive ingredient is in accord with 21 CFR 330.1(e), which provides that monograph products may contain only those suitable inactive ingredients which are safe in the amounts administered and which do not interfere with the preparation's effectiveness or with suitable tests or assays to determine if a drug meets its professed standards. The comment mentioned that salicylic and lactic acids can be quantified separately in the same formulation; thus, there is no interaction between them. The comment added that the Panel concluded from the Bunney study (Ref. 2) that salicylic acid rather than lactic acid is responsible for effectiveness and that lactic acid is not interfering with the salicylic acid when enhancing the formulation's pharmaceutical qualities (45 FR 65609 at 65617).

The comment further contended that neither the Panel nor FDA considered whether lactic acid was a suitable inactive ingredient in wart removal drug products and that there was no reason to do so because the OTC drug review is concerned almost exclusively with active ingredients. The comment noted that lactic acid was reviewed as an active ingredient.

The comment cited as precedent an agency letter (Ref. 3) notifying another manufacturer that oil of turpentine could be included as an inactive ingredient for organoleptic reasons in an antitussive drug product when oil of turpentine had been classified in Category III as an antitussive active ingredient.

The comment contended that if the tentative final monograph for OTC wart remover drug products had not specified the inactive ingredient, i.e., in a collodion vehicle, for wart remover drug products, lactic acid could have been included as an inactive ingredient in a wart removal drug product without the necessity of obtaining a modification of the monograph. The comment claimed that the tentative final monograph as presently written would permit the inclusion of lactic acid along with the collodion as a suitable inactive ingredient pursuant to 21 CFR 330.1(e). However, in order to remove any ambiguity with regard to the issue, the comment urged that the tentative final monograph be amended to include lactic acid as an inactive ingredient or, in the alternative, that no inactive ingredients be specified.

The agency disagrees with the comment's requests. The Panel reviewed lactic acid as an active ingredient in OTC wart remover drug products (45 FR 65609 at 65615). The comment's statement about the Panel's conclusions from the Bunney study (Ref. 2) is out of context. The Panel stated it could find no data on the use of lactic acid alone in the treatment of warts, and that data showing that lactic acid contributes to the increased effectiveness of the combination over that of salicylic acid alone are needed to upgrade the combination to Category I (45 FR 65617). When the Panel concluded that lactic acid does not contribute greatly to the combination's effectiveness, it did not regard lactic acid as an inactive ingredient but as an ingredient for which no data were found to support its use as a wart remover.

The Panel mentioned a study by Van Scott and Yu (Ref. 4), which stated that lactic acid is one of a group of compounds that modify keratinization in ichthyosis. Histologically, preparations of biopsy specimens taken from treated and untreated skin reveal distinct changes that suggest that these compounds may cause an immediate effect on epidermis keratinization. One change that occurs is abrupt loss of the entire stratum corneum. This is seen clinically by sudden separation of thick scales to reveal a normal skin surface. Another change noted in this study is that significant shedding occurs, reducing the thickness of the epidermis (45 FR 65610). These microscopic and clinical changes attributable to lactic acid clearly fall within the statutory definition of the effects produced by a drug. The act defines a "drug" in part as an article "intended to affect the structure or function of the body" (21 U.S.C. 321(g)(1)(C)). Another submission (Ref. 5) supporting the use of 5 percent lactic acid in combination with salicylic acid described lactic acid as being a caustic agent, having keratoylic activity, and as having corrosive properties. The study by Van Scott and Yu and the submission (Ref. 5) clearly indicate that

lactic acid is an active ingredient, i.e., a drug, when used in these types of products.

The comment presently markets a prescription wart remover drug product containing salicylic acid 16.7 percent and lactic acid 16.7 percent as active ingredients in a collodion vehicle (Ref. 6). Product labeling states that its pharmacologic activity is generally attributed to the keratolytic action of both lactic acid and salicylic acid (Ref. 6). Another company also markets a product containing the same active ingredients in the same concentration with the same labeling statement of pharmacologic activity (Ref. 7). Lactic acid 16.7 percent cannot be an inactive OTC ingredient and also be an active ingredient at the same concentration in similar products.

The agency regards lactic acid to be an active ingredient in products labeled for the removal of warts and is not including lactic acid in the final monograph as an optional inactive ingredient as suggested by the comment because of a lack of data demonstrating its effectiveness. Further, in a proposed rule on inactive ingredients (April 12, 1977; 42 FR 19156 at 19157), the agency stated the following:

> Various OTC drug panels have questioned whether an OTC drug may retain as an inactive ingredient an ingredient that was formerly listed as an active ingredient, but which was found not to be generally recognized as safe and effective (Category II) or to require additional testing (Category III). If these ingredients have been promoted by manufacturers for an extended time, there is a potential for misleading consumers if the general recognition of the safety and effectiveness issue is unresolved and the name of the ingredient is retained on the label or in the labeling with an unwarranted degree of prominence. The Commissioner believes this should not be permitted, and this proposal is intended to preclude the retention and redesignation of an active ingredient as an inactive ingredient unless it serves an acceptable function as an inactive ingredient. As a result, manufacturers of OTC drug products containing an ingredient in Category II or Category III shall, at the end of the time period permitted for marketing, or if found to require further testing before a determination as to general recognition of safety and effectiveness can be made for such ingredients, be required by the effective date either to reformulate the product to remove the ingredient or if it is retained in the product as an inactive ingredient, to establish that the ingredient fulfills the requirements for use as an inactive ingredient in the product.

If lactic acid is retained in a wart remover drug product as an inactive ingredient, the manufacturer must establish that lactic acid fulfills the requirements for use as an inactive ingredient. The intended uses of lactic acid, as the comment stated, are as a protective agent to the drug, as an adherent to the skin after the solvent has evaporated, and as a retentive of residual nonvolatile liquid sufficient to retain enough solubility to permit molecular transfer into the skin. The physical characteristic of adhesion of various concentrations of lactic acid is reported in the comment's description of an unpublished in-vitro study's results (Ref. 1). The agency cannot use the comment's description of the study as the sole basis to determine the inactive ingredient status of lactic acid nor can the agency ignore the keratolytic activity of lactic acid, as noted above. Despite the comment's contention that lactic acid is a protective and adherent, lactic acid is still an active ingredient that has not been shown to produce an effective level of keratolysis sufficient to be included in this final monograph. Furthermore, the agency's proposed rule on inactive ingredients lists a number of uses of inactive ingredients (42 FR 19156 at 19160). It does not include the protective and adherent uses of lactic acid as the comment described. It does include under proposed § 330.3(p) "solvents and vehicles": "Substances used to dissolve or extract another substance or used as carriers of other substances." However, the agency considers that mechanism as being different from retaining a residual nonvolatile liquid, as mentioned by the comment. Therefore, the agency does not consider lactic acid an inactive ingredient for any use listed in its proposal at 42 FR 19160.

With regard to the comment's argument about the dual status of oil of turpentine, data were submitted to the Cough-Cold Panel on the use of oil of turpentine as an active antitussive ingredient combined with menthol, camphor, eucalyptus oil, thymol, and myristica oil in a petrolatum ointment base for application to the chest. Based on submitted data, in the final monograph for OTC antitussive drug products (52 FR 30042 at 30054; August 12, 1987), the agency made a final determination that oil of turpentine was a nonmonograph active ingredient. Publication of the final monograph superseded the agency's letter of February 16, 1983 (Ref. 3) discussing oil of turpentine. In addition, in the tentative final monograph on cough, cold, allergy, bronchodilator, and antiasthmatic combination drug products (53 FR 30522 at 30547: August 12, 1988), the agency determined that oil of turpentine at 4.5 percent was an active ingredient but classified thymol 0.1 percent, cedarleaf oil 0.38 percent, and myristica oil 0.485 percent as inactive ingredients because of their low concentrations. Menthol 2.6 percent, camphor 4.7 percent, and eucalyptus oil 1.2 percent, were considered active ingredients (53 FR 30547). Although oil of turpentine in a combination is still pending further proceedings in the cough-cold combinations rulemaking, the agency considers the status of oil of turpentine an active ingredient, and the agency's position on that ingredient does not support the comment's argument that lactic acid is an inactive ingredient.

For the reasons stated above, the agency is classifying lactic acid (5 to 17 percent) a nonmonograph active ingredient in this final rule.

References

(1) Comment No. C00002, description of unpublished in-vitro study by Dermal Laboratories, Ltd., pp. 3–4, Docket No. 80N–0238, Dockets Management Branch.

(2) Bunney, M.H., M.W. Nolan, and D.A. Williams. "An Assessment of Methods of Treating Viral Warts by Comparative Treatment Trials Based on a Standard Design," British Journal of Dermatology, 94:667–679, 1976.

(3) Letter from W.E. Gilbertson, FDA to G.F. Hoffnagle, Richardson-Vicks, Inc., coded ANS 1, Docket No. 76N–052T, Dockets Management Branch.

(4) Van Scott, E.J., and R.J. Yu, "Control and Keratinization with a-Hydroxy Acids and Related Compounds. Topical Treatment of Ichthyotic Disorders." Archives of Dermatology, 110:586–590, 1974.

(5) OTC Volume 160359, pp. 5, 59, and 60.

(6) "Physicians' Desk Reference," 43d Ed., Medical Economics Co., Inc., Oradell, NJ, p. 621, 1989.

(7) "Physicians' Desk Reference," 44th Ed., Medical Economics Co., Inc., Oradell, NJ, p. 2163, 1990.

9. One comment urged the agency to consider requiring a package insert for OTC wart remover drug products that would clearly describe, in layman's terms, the type of warts on which the drug could be used, a simple explanation of how the drug works, how it should be used, the potential side effects, and the precautions and contraindications, especially for the elderly. The comment did not feel that the labeling proposed in § 358.150 was sufficient for the lay population to safely and effectively self-medicate with these products. Noting that salicylic acid is "not without side effects or risks," the comment was specifically concerned about risks in the elderly population because of the higher incidence of diabetes mellitus, peripheral vascular disease, and decreased visual acuity.

The agency appreciates the comment's concern, but does not believe

that it is necessary to require a package insert for OTC wart remover drug products. The agency is aware that the Miscellaneous External Panel considered self-medication by the elderly with OTC wart remover drug products and, accordingly, proposed certain warnings, which the agency has adopted. These warnings address several of the concerns raised by the comment. The Panel recommended the following warning "Do not use if you are a diabetic or have poor blood circulation because serious complications may result." (See 45 FR 65609 at 65618.) The agency concurred with this recommendation in the tentative final monograph 47 FR 39102 at 39104 and in the reproposed tentative final monograph (52 FR 9992 at 9993). However, in this document the warning has been revised and is included in § 358.150(c)(1)(ii) of this final monograph. See comment 11 below.

The Panel noted that systemic absorption of salicylates occurs whether the salicylates are administered orally, rectally, intravenously, or cutaneously (through the skin) (45 FR 65609 at 65612). However, the Panel stated that it was unaware of any report of salicylism (toxic reaction) occurring from the cutaneous use of salicylic acid as a wart remover. The agency also is not aware of any such reports. Therefore, the agency concludes that the labeling information required by § 358.150 of this final monograph should provide for the safe and effective use of OTC wart remover drug products by all populations, including the elderly.

The agency is aware that wart remover drug products are marketed in small containers and that it is difficult to print all of the required labeling information on the immediate container label in a print size that can readily be read by elderly consumers. The agency encourages manufacturers of these products to provide a consumer package insert or outer container that provides a larger size print for all consumers, particularly for the elderly. The agency has no objection if manufacturers provide additional information of the type requested by the comment in addition to the required monograph labeling. Manufacturers are also encouraged to print a statement on the product container label, carton, or package insert suggesting that the consumer retain the carton or package insert for complete information about the use of the product when all the required labeling does not appear on the product container label.

10. One comment recommended that the definition of "collodion-like vehicle" in proposed § 358.103 be slightly modified to read as follows: "A solution containing pyroxylin or film-forming vehicle in an appropriate solvent that leaves a transparent cohesive film when applied to the skin in a thin layer." The comment contended that this proposed definition would clarify that "any appropriate vehicle similar to a collodion (*e.g.*, collodion-like) would be acceptable," and that this flexibility of choice of vehicles allows for scientific improvement and refinement beyond the vehicles commonly used today, without necessitating amendment of a final monograph. The comment added that its request comports with the agency's rationale for expanding the definition from "collodion" to "collodion-like" (52 FR 9992 at 9993) and is consistent with the broad definition the agency gave to "plaster vehicle," which allows for improved topical patches utilizing technologies beyond those specifically in use today.

While the agency has tried to be flexible in the monograph definitions to allow for reasonable product improvement and innovation, it does not agree with the comment's proposed modification of the definition of a collodion-like vehicle. Addition of the words "film-forming vehicle" in the definition would make the definition too broad, would expand the definition beyond vehicles that are similar to collodion, and could allow any "film-forming vehicle" to be used. If this occurred, it could result in the introduction into the market of a wide variety of natural and synthetic film-forming compounds whose impact on the safety and effectiveness of salicylic acid is unproven. It is possible that such compounds could eventually be included in the final monograph, but data would be needed to support their interaction with salicylic acid used in wart remover drug products. Accordingly, the agency is not revising the definition of "collodion-like vehicle" in § 358.103 at this time, but will consider doing so in the future if vehicles of the type requested by the comment are found to be acceptable for inclusion in the monograph.

11. One comment suggested "a slight variation" to the warning proposed in § 358.150(c)(1)(ii), to read as follows: "Do not use if you are diabetic or have poor circulation or if there is any inflammation or irritation of the affected area." The comment stated that this proposed revision is preferable because it combines the warnings in § 358.150(c)(1) (ii) and (iii) and is stronger in its exhortation against use by diabetics and those with poor circulation. The comment contended that advising diabetics against the use of salicylic acid is medically sound and standard physician practice. The comment concluded that, for medical and product liability reasons, it would prefer to retain its label warning (suggested above) that it has used in recent years on its wart remover drug products. The comment did not include any documentation in support of the more stringent, combined warning.

The agency notes that the comment's suggestion involves more than the combining of two warnings. The warning against use by diabetics that the agency proposed in the tentative final monograph reads as follows: "Do not use this product if you are a diabetic or have poor blood circulation, except under the advice and supervision of a doctor." The other warning proposed by the agency in the tentative final monograph reads as follows: "Do not use on irritated skin or on any area that is infected or reddened." The first warning to "diabetics" allows use of the product under a doctor's supervision. The second warning describes a "do not use" condition and is not dependent on advice or supervision by a doctor. The warning suggested by the comment would eliminate use of the product by a diabetic even under a doctor's supervision.

The Panel, in its review of keratolytics (chemical agents used to treat warts), considered the safety issues concerning the use of salicylic acid by diabetics and those individuals having poor blood circulation. After reviewing the data available at that time, and considering its members' experience, the Panel stated (45 FR 65609 at 65611):

> However, persons with poor circulation or diabetes should not use OTC preparations for removing warts except on the advice and under the supervision of a doctor. The Panel feels that such individuals are more prone to infections which may result from injury to surrounding skin by the OTC preparation or by mechanical attempts to remove the wart.

In evaluating the comment's suggestion, the agency reviewed a number of commonly used reference books (Refs. 1 through 4) but found that the references do not support the comment's contention that diabetics and individuals with poor circulation absolutely should not use wart remover drug products. For example, Basic & Clinical Pharmacology mentions that "Particular care must be exercised when using the drug on the extremities of diabetics or patients with peripheral vascular disease," (Ref. 1). Drug Evaluations (Ref. 2) states that caution must be exercised when a 40-percent

plaster is used, particularly on the extremities, in diabetics, or in patients with peripheral vascular disease, "since acute inflammation and ulceration may occur after excessive use." The United States Dispensatory (Ref. 3) states that plasters containing 40 percent of salicylic acid may cause acute inflammation and ulceration in diabetics or in persons with peripheral vascular disease "if not used with caution." Drug Information for the Health Care Provider (Ref. 4), in its discussion of the topical use of salicylic acid, states that products containing 25 percent or more of salicylic acid are not recommended for use on inflamed skin * * * or in individuals with diabetes or circulatory failure (impairment) since acute inflammation or ulceration may occur.

In discussing factors that lead to tissue necrosis in the diabetic foot, Edmonds (Ref. 5) states that "chemical trauma can result from the use of keratolytic agents such as 'corn plasters.' They often contain salicylic acid which causes ulceration in the diabetic foot." In providing general advice on foot care for the "at risk" diabetic patient, Boulton (Ref. 6) states "Do not use chemical agents (keratolytics) to treat calluses or corns."

The agency also reviewed the labeling for keratolytic drug products containing salicylic acid that appears in the Physician's Desk Reference for Nonprescription Drugs (Ref. 7) and found that the labeling for the listed wart remover drug products contain a warning that the product is not recommended for use by diabetics or individuals with impaired or poor blood circulation.

Based on the above, the agency has determined that there is adequate support for a stronger warning, as requested by the comment. In addition, based on the serious consequences that can result from misuse, the agency believes it is better to err on the side of caution and to have the labeling of these OTC drug products state that the product should not be used under certain conditions rather than state an "except under" condition for use. Therefore, the agency is agreeing with the comment's suggested approach to combine the warnings in § 358.150(c) (ii) and (iii) but is revising its recommended warning slightly for clarity. The revised warning appears in § 358.150(c)(1)(ii) of this final monograph as follows: "Do not use this product on irritated skin, on any area that is infected or reddened, if you are a diabetic, or if you have poor blood circulation." This revised warning now contains the same information as the warning proposed in § 358.150(c)(i)(iii), and that warning is not included in this final monograph. Accordingly, the warnings in paragraphs (c)(1) (iv) and (v) are redesignated as (iii) and (iv) in this final monograph.

References

(1) Katzung, B.G., editor, "Dermatologic Pharmacology," in "Basic & Clinical Pharmacology," 2d Ed., Lange Medical Publications, Los Altos, CA, p. 768, 1984.

(2) "Antiviral Agents for Warts and Mulluscum Contagiosum," in "Drug Evaluations," 6th Ed., American Medical Association, Chicago, p. 1518, 1986.

(3) Osol, A., R. Pratt, and A.R. Gennaro, "The United States Dispensatory," 27th Ed., J.B. Lippincott Co., Philadelphia, p. 1035, 1973.

(4) "Salicyclic Acid (Topical)," in "Drug Information for the Health Care Provider", 5th Ed., Mack Printing Co., Easton, PA, p. 1121, 1985.

(5) Edmonds, M.E., "The Diabetic Foot: Pathophysiology and Treatment," Clinics in Endocrinology and Metabolism, 15:897, 1986.

(6) Boulton, A.J.M., "The Diabetic Foot," The Medical Clinics of North America, 72:1520, 1988.

(7) "Physician's Desk Reference for Nonprescription Drugs," 11th Ed., Medical Economics Co., Inc., Oradell, NJ, pp. 587 and 747, 1990.

12. One comment stated that the directions for use of most currently marketed wart remover drug products containing salicylic acid suggest that the user soak the area before application of the product. Noting that it has no data that soaking is mandatory, the comment requested that "permissive soaking" be allowed in the directions and suggested the following language be included in § 358.150(d):

(1) *For products containing salicylic acid identified in § 358.110(a).* "Wash affected area (soaking wart for several minutes, if desired) before drying thoroughly." (If appropriate: "Cut plaster to fit wart.") "Apply medicated plaster. Repeat procedure every 48 hours as needed (until wart is removed) for up to 12 weeks."

(2) *For products containing salicylic acid identified in § 358.110(b).* "Wash affected area (soaking wart for several minutes, if desired) before drying thoroughly." Apply one drop at a time to sufficiently cover each wart. Let dry. Repeat this procedure once or twice daily as needed (until wart is removed) for up to 12 weeks."

Another comment addressed the directions included in § 358.150(d) of the first tentative final monograph on OTC wart remover drug products (47 FR 39102 at 39104 to 39105). These directions included soaking the wart for 5 minutes before applying the salicylic acid product. The comment contended that this procedure is unnecessary because any product containing salicylic acid as a keratolytic would be effective without soaking. The comment requested that the sentence "Wash affected area and soak wart for 5 minutes" be deleted from the directions.

The agency has reviewed the Panel's discussion of wart remover drug products and notes that the Panel stated that "the therapeutic effectiveness of salicylic acid in wart therapy depends upon the presence of moisture; therefore, salicylic acid is usually incorporated into vehicles (plasters, flexible collodions, occlusive ointments) that occlude the area and promote hydration (taking up of water), causing maceration of the skin" (45 FR 65609 at 65612). Although the Panel did not discuss whether test subjects did or did not soak the affected area before applying the wart remover product containing salicylic acid , it did include soaking of the wart for 5 minutes before application of the product as part of its recommended directions (45 FR 65609 at 65613).

In the tentative final monograph for OTC corn and callus remover drug products, published in the Federal Register of February 20, 1987 (52 FR 5412), the agency reviewed the results of a double-blind placebo-controlled study in which the effect of soaking as a means of increasing efficacy of salicylic acid in removing soft corns was evaluated (Ref. 1). At that time, the agency determined that it was unnecessary to soak the affected area and revised the previously-proposed directions to eliminate "soaking" (52 FR 5416). The agency has re-evaluated this study and determined that it did not include a "non-soaking" group, but that all test subjects soaked the corn for 5 minutes before applying the medication and soaked for either 5 minutes or 15 minutes before attempting removal of the corn. Although this study did not show that soaking 5 minutes prior to applying the salicylic acid is necessary for salicylic acid to be effective, it also did not show that any adverse effects occur if the corn is soaked before the area is dried and the corn remover product applied. The agency notes that although this study was conducted on soft corns, the same findings are relevant to the removal of hard corns/calluses and warts because the category I active ingredient, salicylic acid, and its mode of action, keratolysis, are the same for all three conditions. It is possible that soaking increases the presence of moisture in the corn or wart, which then may promote hydration and aid the therapeutic effectiveness of salicylic acid, as the Panel indicated.

The agency has examined the directions for use for a number of currently marketed wart remover drug products and notes that some include soaking the wart for varied periods of time ranging from several minutes up to 30 minutes before the product is applied. Some of the products include directions to soak in hot water and some say to use warm water, while others do not specify temperature (Refs. 2 and 3).

There is no evidence that using different soaking times or temperatures is likely to alter the effectiveness of the wart remover drug products. The agency believes that while hot water may cause burns, warm or cold water could be used effectively for soaking but that warm water would be more comfortable. Based on the panel's recommendation, the agency's re-evaluation of the study discussed above, and on the historical and current use of wart remover drug products, the agency is including soaking of the wart in warm water for 5 minutes before application of the salicylic acid as an optional direction for those manufacturers who wish to give consumers the option to do so. Accordingly, the agency is revising § 358.150(d) in this final monograph to read as follows:

(1) *For products containing salicylic acid identified in § 358.110(a).* "Wash affected area." (optional: "May soak wart in warm water for 5 minutes.") "Dry area thoroughly." (If appropriate: "Cut plaster to fit wart.") "Apply medicated plaster. Repeat procedure every 48 hours as needed (until wart is removed) for up to 12 weeks."

(2) *For products containing salicylic acid identified in § 358.110(b).* "Wash affected area." (optional: "May soak wart in warm water for 5 minutes.") "Dry area thoroughly. Apply one drop at a time to sufficiently cover each wart. Let dry. Repeat this procedure once or twice daily as needed (until wart is removed) for up to 12 weeks."

References

(1) Goodman, J.J., and L. Farris, "Evaluation of Safety and Effectiveness of 20% Salicylic Acid for the Removal of Soft Corns," (Scholl Study No. S–82–47), draft of unpublished study, Comment No. LET, Docket No. 81N–0122, Dockets Management Branch.

(2) "Physicians' Desk reference for Nonprescription drugs," 11th Ed., Medical Economics Co., Oradell, NJ, pp. 587 and 747, 1990.

(3) Labels for currently marketed wart remover drug products included in OTC Volume 16PFM, Docket No. 80N–0238, Dockets Management Branch.

13. One comment suggested three modifications to the directions proposed in § 358.150(d)(1) for wart remover drug products in a plaster vehicle to accommodate its salicylic acid product in an adhesive pad delivery system. (See comment 5 above.) The comment requested the following additions (italicized) to the proposed directions: "Wash affected area and dry thoroughly." (If appropriate: "Cut plaster *material* to fit wart.") "Apply medicated plaster *as directed.* Repeat procedure every *24 to 48* hours as needed (until wart is removed) for up to 12 weeks."

The agency notes that the definition of "plaster vehicle" in this final monograph refers to a "fabric, plastic, or other suitable backing material * * *." Accordingly, adding the word "material" after the word "plaster," as suggested by the comment, would provide no additional useful information to the user of the product.

The agency also does not see any benefit to adding the words "as directed," as suggested by the comment, because these OTC drug products are intended for self-diagnosis and treatment and are not dependent on the receipt of directions from a doctor. If there are any special directions that relate to using a particular product, then such information should appear as part of the manufacturer's additional directions for the product. The monograph provides the minimum directions necessary for use of the product. Manufacturers may supplement these directions with additional information necessary to use their specific product. For example, the agency notes that the manufacturer's directions for its specific product include statements to "keep plastic film on the top of pad facing up and to apply sticky bottom side to the wart." The agency finds no need to incude such directions in this final monograph; however, manufacturers may add such information, as appropriate, to the labeling of their products.

Neither the Miscellaneous External Panel's report (45 FR 65609) nor the first tentative final monograph for OTC wart remover drug products (47 FR 39102) included salicylic acid in a plaster vehicle. The directions for salicylic acid in a plaster vehicle that were included in the reproposed tentative final monograph for OTC wart remover drug products were based upon data and comments submitted to the rulemaking for OTC corn/callus remover drug products (52 FR 9992). In developing those directions, the agency recognized that, although the etiology and pathology of corns and calluses are different from that of warts, the Category I active ingredient, salicylic acid, and its mode of action, keratolysis, are common to both rulemakings (52 FR 9992). The studies that supported the effectiveness of 40 percent salicylic acid in a plaster vehicle for the treatment of corns and calluses utilized a 48-hour treatment interval (47 FR 526).

The comment submitted data from three double-blind, placebo controlled clinical studies (Ref. 1). The purpose of two of the studies was to investigate the efficacy of 5 percent and 15 percent concentrations of salicylic acid in the treatment of common warts when administered in a karaya gum, glycol patch. The control patch was a polymer of karaya gum plus glycols without the salicylic acid. The amount of the glycols was increased to compensate for the missing salicylic acid. The treatment period of the studies was 12 weeks, with dermatologist evaluation at weeks 2, 4, 6, 8, and 12. Subjects were directed to apply the patch at bedtime, to leave it on at least 8 hours, and remove and discard the patch in the morning. Treatments were repeated daily. The same protocol was used at studies at two sites; 66 subjects completed one study, and 52 subjects completed the other study. No subjects were dropped from either study because of adverse reactions. The agency concluded that only one of the studies showed superiority in both the number of subjects cured and the number of warts cured. The other study indicated that, for warts cured, the 15 percent concentration of salicylic acid was not statistically different from placebo. The third study evaluated only the 15 percent concentration of salicylic acid versus its karaya gum glycol placebo vehicle. A total of 61 subjects entered the study, but 8 were excluded from evaluation for compliance reasons. Subjects again applied the treatments for 8 hours at bedtime on a daily basis. Warts were evaluated at 4, 8, and 12 weeks. The data indicate that the product is superior to placebo in the treatment of warts (Ref. 1).

Based on the above, the agency is adding this formulation to the final monograph by revising proposed § 358.110 to add paragraph (c) for the active ingredient, "Salicylic acid 15 percent in a karaya gum, glycol plaster vehicle." The agency is also revising proposed § 358.110 to add a new paragraph (d)(3) as folllows: *"For products containing salicylic acid identified in § 358.110(c).* 'Wash affected area.' (Optional: 'May soak wart in warm water for 5 minutes.') 'Dry area thoroughly.' (If appropriate: 'Cut plaster to fit wart.') "Apply medicated plaster at bedtime, leave in place for at least 8 hours; in the morning, remove plaster and discard. Repeat procedure every 24

hours as needed (until wart is removed) for up to 12 weeks.' "

Reference

(1) Comment No. RPT 2, Docket No. 80N-0236, Dockets Management Branch.

14. One comment noted its continuing position that FDA cannot legally and should not, as a matter of policy, prescribe exclusive lists of terms from which indications for use for OTC drug products must be drawn and prohibit alternative OTC drug labeling terminology to describe such indications which is truthful, not misleading, and intelligible to the consumer. The comment referred to its oral and written testimony submitted to FDA in connection with the September 29, 1982 hearing on the exclusivity policy.

In the **Federal Register** of May 1, 1986 (51 FR 16258), the agency published a final rule changing its labeling policy for stating the indications for use of OTC drug products. Under 21 CFR 330.1(c)(2), the label and labeling of OTC drug products are required to contain in a prominent and conspicuous location, either (1) the specific wording on indications for use established under an OTC drug monograph, which may appear within a boxed area designated "APPROVED USES"; (2) other wording describing such indications for use that meets the statutory prohibitions against false or misleading labeling, which shall neither appear within a boxed area nor be designated "APPROVED USES"; or (3) the approved monograph language on indications, which may appear within a boxed area designated "APPROVED USES," plus alternative language describing indications for use that is not false or misleading, which shall appear elsewhere in the labeling. All other OTC drug labeling required by a monograph or other regulation (e.g., statement of identity, warnings, and directions) must appear in the specific wording established under the OTC drug monograph or other regulation where exact language has been established and identified by quotation marks, *e.g.*, 21 CFR 201.63 or 330.1(g). The final rule in this document is subject to the labeling provisions in § 330.1(c)(2).

15. One comment requested the deletion of a portion of the directions proposed in § 358.150(d). The comment contended that directing patients to "Gently remove softened areas of the wart by rubbing with a wash cloth or emery board," and "Do not rub hard enough to cause bleeding," was not necessary and may not be in the best interest of the consumer. The comment explained that the consumer did not need to remove softened areas of the wart by rubbing and that the product would be effective without rubbing the wart as proposed in § 358.150(d). The comment contended that improper use of an emery board or washcloth could easily cause bleeding and subsequent infection.

This comment addressed directions proposed in the tentative final monograph published on September 3, 1982, and was received prior to publication of the reproposed tentative final monograph on March 27, 1987 (52 FR 9992). In that reproposal, the agency revised the directions proposed in § 358.150(d) and no longer included any directions about removing softened areas of the wart by rubbing. Thus, the comment's request was taken care of by the reproposed tentative final monograph.

16. One comment requested the deletion of the phrase in proposed § 358.150(d) that reads "preferably by encircling the wart with a ring of petrolatum." The comment contended that including only "petrolatum" in the warning may create the mistaken belief that petrolatum is the only acceptable protection. The comment added that such was not the Panel's finding, and many other types of protection could be used. Further, the comment argued that the word petrolatum may not be understood by consumers and, hence, may cause confusion. The comment concluded that the first part of the proposed directions statement, i.e., "Keep product away from surrounding skin" is sufficient to provide the consumer with directions to ensure correct usage of the product.

This comment addressed directions proposed in the tentative final monograph published on September 3, 1982, and was received prior to publication of the proposed tentative final monograph on March 27, 1987 (52 FR 9992). In that reproposal, the agency no longer included any directions about encircling the wart with a ring of petrolatum. In addition, the agency also did not include a direction to "keep the product away from surrounding skin." This decision was based on a discussion that appeared in the tentative final monograph for OTC corn and callus remover drug products, where the agency stated that recent studies on the effect of salicylic acid on normal skin have demonstrated that salicylic acid primarily reduces the intercellular cohesiveness of the horny cells and has no effect on the mitotic activity of the normal epidermis. (See 52 FR 5412 at 5416.) Thus, the agency determined that the warning regarding avoiding contact with the surrounding skin is not necessary. Accordingly, the comment's request was taken care of by the reproposed tentative final monograph.

II. Summary of Significant Changes From the Proposed Rule

1. The agency has determined that a hydroscopic karaya gum pad with polypropylene backing meets the definition of a "plaster vehicle" in this final monograph. (See comment 5 above.) The agency is adding "salicylic acid 15 percent in a karaya gum, glycol plaster vehicle" to the list of active ingredients in § 358.110 and directions for this ingredient in § 358.150(d). (See comment 13 above.)

2. The agency has determined that a vehicle containing pyroxylin, volatile solvents, and a plasticizer meets the definition of a "collodion-like" vehicle in this final monograph. (See comment 7 above.)

3. The warnings proposed in § 358.150(c)(1) (ii) and (iii) are being combined, revised, and redesignated as § 358.150(c)(1)(ii). The warnings proposed in § 358.150(c)(1) (iv) and (v) are now redesignated as paragraphs (iii) and (iv). (See comment 11 above.)

4. The agency is revising the directions proposed in § 358.150(d) (1) and (2) to give manufacturers the option of including information about soaking the wart for 5 minutes in warm water prior to application of the wart remover drug product. (See comment 12 above.)

III. The Agency's Final Conclusions on OTC Wart Remover Drug Products

Based on the available evidence, the agency is issuing a final monograph establishing conditions under which OTC wart remover drug products are generally recognized as safe and effective and not misbranded. Specifically, the agency has determined that the only ingredients that meet monograph conditions are salicylic acid 12 to 40 percent in a plaster vehicle, salicylic acid 5 to 17 percent in a collodion-like vehicle, and salicylic acid 15 percent in a karaya gum, glycol plaster vehicle. All other ingredients for wart removal that were considered in this rulemaking are considered nonmonograph ingredients, i.e., acetic acid, glacial acetic acid, ascorbic acid, benzocaine, calcium pantothenate, camphor, castor oil, iodine, lactic acid, and menthol. Any drug product marketed for use as an OTC wart remover that is not in conformance with the monograph (21 CFR part 358, subpart B) is considered a new drug within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(p)) and misbranded under

section 502 of the act (21 U.S.C. 352) and can not be marketed for this use unless it is the subject of an approved application. An appropriate citizen petition to amend the monograph may also be submitted under 21 CFR 10.30.

No comments were received in response to the agency's request for specific comment on the economic impact of this rulemaking (52 FR 9993). The agency has examined the economic consequences of this final rule in conjunction with other rules resulting from the OTC drug review. In a notice published in the **Federal Register** of February 8, 1983 (48 FR 5806), the agency announced the availability of an assessment of these economic impacts. The assessment determined that the combined impacts of all the rules resulting from the OTC drug review do not constitute a major rule according to the criteria established by Executive Order 12291. The agency therefore concludes that no one of these rules, including this final rule for OTC wart remover drug products, is a major rule.

The economic assessment also concluded that the overall OTC drug review was not likely to have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (Pub. L. 96-354). That assessment included a discretionary regulatory flexibility analysis in the event that an individual rule might impose an unusual or disproportionate impact on small entities. However, this particular rulemaking for OTC wart remover drug products is not expected to pose such an impact on small businesses. Therefore, the agency certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 358

Labeling, Over-the-counter drugs, Wart remover drug products.

Therefore, under the Federal Food, Drug, and Cosmetic Act, subchapter D of chapter I of title 21 of the Code of Federal Regulations is amended by adding new part 358 as follows:

PART 358—MISCELLANEOUS EXTERNAL DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

Subpart A—[Reserved]

Subpart B—Wart Remover Drug Products

Sec.

358.101 Scope.
358.103 Definitions.
358.110 Wart remover active ingredients.
358.150 Labeling of wart remover drug products.

Authority: Sections 201, 501, 502, 503, 505, 510, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 353, 355, 360, 371).

Subpart A—[Reserved]

Subpart B—Wart Remover Drug Products

§ 358.101 Scope.

(a) An over-the-counter wart remover drug product in a form suitable for topical application is generally recognized as safe and effective and is not misbranded if it meets each of the conditions in this subpart and each of the general conditions established in § 330.1 of this chapter.

(b) References in this subpart to regulatory sections of the Code of Federal Regulations are to chapter I of title 21 unless otherwise noted.

§ 358.103 Definitions.

As used in this subpart:

(a) *Wart remover drug product.* A topical agent used for the removal of common or plantar warts.

(b) *Collodion-like vehicle.* A solution containing pyroxylin (nitrocellulose) in an appropriate nonaqueous solvent that leaves a transparent cohesive film when applied to the skin in a thin layer.

(c) *Plaster vehicle.* A fabric, plastic, or other suitable backing material in which medication is usually incorporated for topical application to the skin.

§ 358.110 Wart remover active ingredients.

The product consists of any of the following active ingredients within the specified concentration and in the dosage form established for each ingredient.

(a) Salicylic acid 12 to 40 percent in a plaster vehicle.

(b) Salicylic acid 5 to 17 percent in a collodion-like vehicle.

(c) Salicylic acid 15 percent in a karaya gum, glycol plaster vehicle.

§ 358.150 Labeling of wart remover drug products.

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as a "wart remover."

(b) *Indications.* The labeling of the product states, under the heading "Indications," any of the phrases listed in paragraph (b) of this section. Other truthful and nonmisleading statements, describing only the indications for use that have been established in paragraph (b) of this section, may also be used, as provided in § 330.1(c)(2) of this chapter, subject to the provisions of section 502 of the Federal Food, Drug, and Cosmetic Act (the act) relating to misbranding and the prohibition in section 301(d) of the act against the introduction or delivery for introduction into interstate commerce of unapproved new drugs in violation of section 505(a) of the act.

(1) "For the removal of common warts. The common wart is easily recognized by the rough 'cauliflower-like' appearance of the surface."

(2) "For the removal of plantar warts on the bottom of the foot. The plantar wart is recognized by its location only on the bottom of the foot, its tenderness, and the interruption of the footprint pattern."

(c) *Warnings.* The labeling of the product contains the following warnings under the heading "Warnings":

(1) *For products containing any ingredient identified in § 358.110.* (i) "For external use only."

(ii) "Do not use this product on irritated skin, on any area that is infected or reddened, if your are a diabetic, or if you have poor blood circulation."

(iii) "If discomfort persists, see your doctor."

(iv) "Do not use on moles, birthmarks, warts with hair growing from them, genital warts, or warts on the face or mucous membranes."

(2) *For any product formulated in a flammable vehicle.* (i) The labeling should contain an appropriate flammability signal word, e.g. "extremely flammable," "flammable," "combustible," consistent with 16 CFR 1500.3(b)(10).

(ii) "Keep away from fire or flame."

(3) *For any product formulated in a volatile vehicle.* "Cap bottle tightly and store at room temperature away from heat."

(4) *For any product formulated in a collodion-like vehicle.* (i) "If product gets into the eye, flush with water for 15 minutes."

(ii) "Avoid inhaling vapors."

(d) *Directions.* The labeling of the product contains the following information under the heading "Directions":

(1) *For products containing salicylic acid identified in § 358.110(a).* "Wash affected area." (Optional: "May soak wart in warm water for 5 minutes.") "Dry area thoroughly." (If appropriate: "Cut plaster to fit wart.") "Apply medicated plaster. Repeat procedure every 48 hours as needed (until wart is removed) for up to 12 weeks."

(2) *For products containing salicylic acid identified in § 358.110(b).* "Wash affected area." (Optional: "May soak wart in warm water for 5 minutes.") "Dry area thoroughly." Apply one drop at a time to sufficiently cover each wart. Let dry. Repeat this procedure once or twice daily as needed (until wart is removed) for up to 12 weeks."

(3) *For products containing salicyclic acid identified in § 358.110(c).* "Wash affected area." (Optional: "May soak wart in warm water for 5 minutes.") "Dry area thoroughly." (If appropriate: "Cut plaster to fit wart.") "Apply medicated plaster at bedtime, leave in place for at least 8 hours; in the morning, remove plaster and discard. Repeat procedure every 24 hours as needed (until wart is removed) for up to 12 weeks."

(e) The word "physician" may be substituted for the word "doctor" in any of the labeling statements in this section.

(f) The phrase "or podiatrist" may be used in addition to the word "doctor" in any of the labeling statements in this section when a product is labeled with the indication identified in § 358.150(b)(2).

Dated: June 27, 1990.

James S. Benson,

Acting Commissioner of Food and Drugs.

[FR Doc. 90–19029 Filed 8–13–90; 8:45 am]

BILLING CODE 4160–01–M

federal register

Tuesday
August 14, 1990

Part IV

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 358

Corn and Callus Remover Drug Products for Over-the-Counter Human Use; Final Monograph; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 358

[Docket No. 81N-0122]

RIN 0905-AA06

Corn and Callus Remover Drug Products for Over-the-Counter Human Use; Final Monograph

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule in the form of a final monograph establishing conditions under which over-the-counter (OTC) corn and callus remover drug products are generally recognized as safe and effective and not misbranded. FDA is issuing this final rule after considering public comments on the agency's proposed regulation, which was issued in the form of a tentative final monograph, and all new data and information on corn and callus remover drug products that have come to the agency's attention. This final monograph is part of the ongoing review of OTC drug products conducted by FDA.

EFFECTIVE DATE: August 14, 1991.

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

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 5, 1982 (47 FR 522), FDA published, under § 330.10(a)(6) (21 CFR 330.10(a)(6)), an advance notice of proposed rulemaking to establish a monograph for OTC corn and callus remover drug products, together with the recommendations of the Advisory Review Panel on OTC Miscellaneous External Drug Products (Miscellaneous External Panel), which was the advisory review panel responsible for evaluating data on the active ingredients in this drug class. Interested persons were invited to submit comments by April 5, 1982. Reply comments in response to comments filed in the initial comment period could be submitted by May 5, 1982.

In accordance with § 330.10(a)(10), the data and information considered by the Panel were put on display in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, after deletion of a small amount of trade secret information.

The agency's proposed regulation, in the form of a tentative final monograph, for OTC corn and callus remover drug products was published in the **Federal Register** of February 20, 1987 (52 FR 5412). Interested persons were invited to file by April 21, 1987, written comments, objections, or requests for oral hearing before the Commissioner of Food and Drugs regarding the proposal. Interested persons were invited to file comments on the agency's economic impact determination by June 22, 1987. New data could have been submitted until February 20, 1988, and comments on the new data until April 20, 1988. Final agency action occurs with the publication of this final monograph, which is a final rule establishing a monograph for OTC corn and callus remover drug products.

The OTC drug procedural regulations (21 CFR 330.10) now provide that any testing necessary to resolve the safety or effectiveness issues that formerly resulted in a Category III classification, and submission to FDA of the results of that testing or any other data, must be done during the OTC drug rulemaking process before the establishment of a final monograph. Accordingly, FDA is no longer using the terms "Category I" (generally recognized as safe and effective and not misbranded), "Category II" (not generally recognized as safe and effective or misbranded), and "Category III" (available data are insufficient to classify as safe and effective, and further testing is required) at the final monograph stage, but is using instead the terms "monograph conditions" (old Category I) and "nonmonograph conditions" (old Categories II and III).

As discussed in the proposed regulation for OTC corn and callus remover drug products (52 FR 5412), the agency advised that the conditions under which the drug products that are subject to this monograph will be generally recognized as safe and effective and not misbranded (monograph conditions) will be effective 12 months after the date of publication in the **Federal Register**. Therefore, on or after August 14, 1991, no OTC drug product that is subject to the monograph and that contains a nonmonograph condition, i.e., a condition that would cause the drug to be not generally recognized as safe and effective or to be misbranded, may be initially introduced or initially delivered for introduction into interstate commerce unless it is the subject of an approved application. Further, any OTC drug product subject to this monograph that is repackaged or relabeled after the effective date of the monograph must be in compliance with the monograph regardless of the date the product was initially introduced or initially delivered for introduction into interstate commerce. Manufacturers are encouraged to comply voluntarily with the monograph at the earliest possible date.

In response to the proposed rule on OTC corn and callus remover drug products, one manufacturer submitted comments. No requests for oral hearing before the Commissioner were received. Copies of the comments received are on public display in the Dockets Management Branch. Any additional information that has come to the agency's attention since publication of the proposed rule is also on public display in the Dockets Management Branch (address above).

All "OTC Volumes" cited throughout this document refer to the submissions made by interested persons pursuant to the call-for-data notices published in the **Federal Register** of November 16, 1973 (38 FR 31697) and August 27, 1975 (40 FR 38179) or to additional information that has come to the agency's attention since publication of the notices of proposed rulemaking. The volumes are on public display in the Dockets Management Branch.

I. The Agency's Conclusions on the Comments

1. One comment requested the agency to reexamine the various dosage forms that could be used for OTC corn and callus remover drug products. The comment noted that the Miscellaneous External Panel had safety concerns about the potential irritation caused by salicylic acid on sites adjacent to the treatment area. These concerns resulted in the Panel designating dosage forms that adequately deliver the product to the affected site, while avoiding contact with surrounding skin. The comment contended that, inasmuch as the agency determined in the tentative final monograph that contact of salicylic acid with surrounding skin does not present a safety problem, the necessity of restrictive dosage forms should be reconsidered.

The comment listed the following vehicles for products containing salicylic acid that were submitted to the Panel: collodion-like, ointment/salve, plaster/pad, liquid/balm, cream, and lotion. The comment also listed the following vehicles for currently marketed products (OTC or prescription) containing salicylic acid: collodion-like, ointment/salve, plaster/pad, liquid/balm, and gel. The comment urged the agency to allow the use of any vehicle that delivers salicylic acid to the

affected site in the approved dosage ranges of 12 to 40 percent. The comment suggested adding a new paragraph to the definitions in § 358.503 as follows: "(d) *Conventional topical vehicles.* An ointment, gel, cream, liquid or other appropriate topical vehicle that delivers the active corn and callus remover to the affected area." The comment also suggested that additional labeling be added to the monograph in § 358.550 to describe the additional topical dosage forms as follows: "Wash affected area and dry thoroughly. Apply sufficient amount to cover the corn or callus. Rub in. Repeat this procedure once or twice daily as needed (until the corn/callus is removed) for up to 14 days. (If desired, soak feet in warm water to assist in removal.) Wash hands thoroughly after application."

The agency has reviewed the submissions on corn and callus remover drug products that were made to the Miscellaneous External Panel (Ref. 1) and has identified the following vehicles (either listed on product labeling or in the manufacturer's list of ingredients contained in these products, or used as the dosage form in the submitted studies): collodion-like, salve, plaster, disk, pad, and cream. Based on the data and information contained in those submissions, the Panel recommended that products containing salicylic acid in a plaster, pad, disk, or collodion vehicle be classified in Category I. However, the Panel classified salicylic acid in an ointment vehicle as Category II because of a lack of data on both safety and effectiveness (47 FR 522 at 527).

In the tentative final monograph, the agency noted that some collodion liquid formulations contain other inactive ingredients or varying amounts of solvent and proposed use of the term "collodion-like" instead of "collodion" in specifying the vehicle for liquid formulations (52 FR 5412 at 5414). The agency also proposed to use the term "plaster" to include "disk" and "pad" because these dosage forms are similar in nature (52 FR 5417).

The agency's determination in the tentative final monograph that salicylic acid does not present a safety problem to surrounding skin was based on additional data (52 FR 5416). These data supported revising the Panel's recommended directions in § 358.550(d)(2) and deleting the warning recommended in § 358.550(c)(1)(iv) concerning avoiding contact of salicylic acid-collodion products with the skin around a corn or callus by using a ring of petrolatum to protect that skin. These data did not address the effectiveness of various dosage forms containing salicylic acid and cannot be used as the basis to support the inclusion of additional dosage forms in the final monograph as suggested by the comment.

Because the comment did not submit any data to support the safety and effectiveness of salicylic acid used in any of the additional requested dosage forms, whether marketed OTC or by prescription, the agency has no basis to add any additional dosage forms to the final monograph. Accordingly, the comment's suggested addition to § 358.503 is not being included in this final monograph. In addition, because the comment's suggested topical dosage forms are not being added to the monograph, there is no basis to include the directions for these dosage forms suggested by the comment. The agency will consider amending the monograph at a later date if adequate supporting data are submitted as a petition to amend the monograph.

References

(1) OTC Volumes 160003, 160073, 160079, 160097, 160098, 160099, 160100, 160101, 160133, 160256, 160282, 160283, 160293, 160294, 160380, and 160398.

2. One comment recommended that the definition of "collodion-like vehicle" in proposed § 358.503 be slightly modified to read as follows: "A solution containing pyroxylin or film-forming vehicle in an appropriate solvent that leaves a transparent cohesive film when applied to the skin in a thin layer." The comment contended that this revised definition would clarify that "any appropriate vehicle similar to a collodion (*e.g.*, collodion-like) would be acceptable," and that this flexibility of choice of vehicles allows for scientific improvement and refinement beyond the vehicles commonly used today, without necessitating amendment of a final monograph. The comment added that its request comports with the agency's rationale for expanding the definition from "collodion" to "collodion-like" (52 FR 5412 at 5414) and is consistent with the broad definition the agency gave to "plaster vehicle," which allows for improved topical patches utilizing technologies beyond those specifically in use today.

While the agency has tried to be flexible in the monograph definitions to allow for reasonable product improvement and innovation, it does not agree with the comment's proposed modification of the definition of a collodion-like vehicle. Addition of the words "film-forming vehicle" in the definition would make the definition too broad, would expand the definition beyond vehicles that are similar to collodion, and could allow any "film-forming vehicle" to be used. If this occurred, it could result in the introduction into the market of a wide variety of natural and synthetic film-forming compounds whose impact on the safety and effectiveness of salicylic acid is unproven and unknown. It is possible that such compounds could eventually be included in the final monograph, but data would be needed to support their interaction with salicylic acid used in corn and callus remover drug products. Accordingly, the agency is not revising the definition of "collodion-like vehicle" in § 358.503 at this time, but will consider doing so in the future if vehicles of the type requested by the comment are found to be acceptable for inclusion in the monograph.

3. One comment agreed with the appropriateness of the new indication ("relieves pain by removing corns and calluses") proposed in § 358.550(b)(2). The comment noted that this indication is permitted only in conjunction with the indication proposed in § 358.550(b)(1), which states "for the removal of corns and calluses." Requesting that the new indication also be allowed to be used with an indication that is similar to, but not precisely the same wording as the "FDA approved" indication proposed in § 358.550(b)(1), the comment proposed that the following language be added to § 358.550(b)(2): "This indication is permitted only in conjunction with either the indication set out in paragraph (b)(1) of this section, or such other truthful or nonmisleading statement that conveys the removal indication."

The agency's labeling policy for stating the indications for use of OTC drug products in 21 CFR 330.1(c)(2) allows manufacturers to do what the comment has requested. Under this labeling policy, the label and labeling of OTC drug products are required to contain in a prominent and conspicuous location, either (1) the specific wording on indications for use established under an OTC drug monograph, which may appear within a boxed area designated "APPROVED USES"; (2) other wording describing such indications for use that meets the statutory prohibitions against false or misleading labeling, which shall neither appear within a boxed area nor be designated "APPROVED USES"; or (3) the approved monograph language on indications, which may appear within a boxed area designated "APPROVED USES," plus alternative language describing indications for use that is not false or misleading, which shall appear elsewhere in the labeling.

In addition to allowing "Approved Uses" (indications that have been established in an applicable final monograph), this regulation allows manufacturers to use other truthful and nonmisleading statements describing only those indications for use that have been established in an applicable monograph. The introductory language in § 358.550(b) in ths final monograph makes reference to the labeling provisions in § 330.1(c)(2). Accordingly, it is not necessary for the agency to incorporate the comment's suggested revision in § 358.550(b)(2).

The agency is revising the language in § 358.550 (b) and (b)(2) to remove any possible confusion that may have existed and to be consistent with the language used in other recently published final OTC drug monographs. Section 358.550(b)(2) will now read as follows: "In addition to the information identified in paragraph (b)(1) of this section, the labeling of the product may contain the following statement: 'Relieves pain by removing corns and calluses.' " The following statement is being added to the introductory language in § 358.550(b): "* * * and may contain the additional phrase listed in paragraph (b)(2) of this section * * *."

4. One comment suggested "a slight variation" to the warning proposed in § 358.550(c)(1)(ii), to read as follows: "Do not use if you are diabetic or have poor circulation or if there is any inflammation or irritation of the affected area." The comment stated that this proposed revision is preferable because it combines the warnings in § 358.550(c)(1) (ii) and (iii) and is stronger in its exhortation against use by diabetics and those with poor circulation. The comment contended that advising diabetics against the use of salicylic acid is medically sound and standard physician practice. The comment concluded that, for medical and product liability reasons, it would prefer to retain its label warning (suggested above) that it has used in recent years on its corn and callus remover drug products. The comment did not include any documentation in support of this more stringent, combined warning.

The same request was submitted to the rulemaking for OTC wart remover drug products and has been addressed in the final monograph for those products, which is being published elsewhere in this issue of the Federal Register.

The agency has determined that there is adequate support for a stronger warning, as requested by the comment. In addition, based on the serious consequences that can result from misuse, the agency believes it is better to err on the side of caution and to have the labeling of these OTC drug products state that the product should not be used under certain conditions rather than state an "except under" condition for use. Therefore, the agency is agreeing with the comment's suggested approach but is revising its recommended warning slightly for clarity. The revised warning appears in § 358.550(c)(1)(ii) of this final monograph as follows: "Do not use this product on irritated skin, on any area that is infected or reddened, if you are a diabetic, or if you have poor blood circulation." This revised warning now contains the same information as the warning proposed in § 358.550(c)(1)(iii), and that warning is not included in this final monograph. Accordingly, the warning proposed in paragraph (c)(1)(iv) of the tentative final monograph is redesignated as paragraph (c)(1)(iii) in this final monograph. (For a more detailed discussion, see the final monograph for OTC wart remover drug products published elsewhere in this issue of the Federal Register.)

5. One comment observed that clinical studies involving salicylic acid in a plaster vehicle showed that soaking of the corn/callus prior to removing the plaster slightly enhanced removal of the corn/callus (Ref. 1). The comment felt that similar results could be expected with salicylic acid in a collodion-like vehicle. Agreeing with the agency's position that prior soaking was not necessary to the effectiveness of these products, the comment requested that the directions in § 358.550(d) allow "soaking" as an option, as follows:

(1) *For products containing salicylic acid identified in § 358.510(a).* "Wash affected area and dry thoroughly." (If appropriate: "Cut plaster to fit corn/callus.") "Apply medicated plaster. After 48 hours remove the medicated plaster. Repeat this procedure every 48 hours as needed (until corn/callus is removed) for up to 14 days. (If desired, soak feet in warm water to assist in removal.)"

(2) *For products containing salicylic acid identified in § 358.510(b).* "Wash affected area and dry thoroughly. Apply one drop at a time to sufficiently cover each corn or callus. Let dry. Repeat this procedure once or twice daily as needed (until corn/callus is removed) for up to 14 days. (If desired, soak feet in warm water to assist in removal.)"

In the tentative final monograph for OTC corn and callus remover drug products (52 FR 5412), the agency reviewed the results of the study mentioned by the comment (Ref. 1). In this study, the effect of soaking as a means of increasing efficacy of salicylic acid in removing soft corns was evaluated. At that time, the agency determined that soaking of the corn/callus after treatment was unnecessary and deleted "soaking" from the previously-proposed directions for these products (52 FR 5416).

The agency has re-evaluated this study and determined that it did not include a "non-soaking" group, but that all test subjects soaked the corn for either 5 minutes or 15 minutes before attempting removal of the corn. Although this study did not show that soaking is necessary for salicylic acid to be effective, it also does not show that any adverse effects occur if the corn is soaked before it is removed. The agency notes that although the study was conducted on soft corns, the same findings are relevant to the removal of hard corns/calluses and warts because the Category I active ingredient, salicylic acid, and its mode of action, keratolysis, are the same for all three conditions.

The agency has examined the directions for use for a number of currently marketed corn and callus remover drug products and notes that most include soaking a short period of time (*e.g.*, 5 minutes) before attempting removal of the corn/callus. Although some of the products include directions to use warm water for soaking, others do not specify water temperature (Refs. 2 and 3).

There is no evidence that using different soaking times or temperatures is likely to alter the effectiveness of the corn/callus remover drug products. The agency believes that warm water (as the Panel suggested) or cold water could be used effectively for soaking but that warm water would be more comfortable. Soaking immediately before removal of the corn/callus may aid in the desquamation of epidermal tissue and may make it easier to remove the corn/callus. In discussing corn and callus remover drug products, the Panel stated that "Moisture is essential for salicylic acid to exert its action and for maceration and desquamation of epidermal tissue to take place" (47 FR 522 at 528).

Based on the Panel's recommendations, the agency's reevaluation of the study discussed above, and on the historical and current use of corn/callus remover drug products, the agency is including soaking of the corn/callus in warm water for 5 minutes prior to removal as an optional direction for those manufacturers who wish to give consumers the option to do so.

Accordingly, the agency is revising § 358.550(d) in this final monograph to read as follows:

(1) *For products containing salicylic acid identified in § 358.510(a).* "Wash affected area and dry thoroughly." (If appropriate: "Cut plaster to fit corn/callus.") "Apply medicated plaster. After 48 hours remove the medicated plaster. Repeat this procedure every 48 hours as needed for up to 14 days (until corn/callus is removed)." (Optional: "May soak corn/callus in warm water for 5 minutes to assist in removal.")

(2) *For products containing salicylic acid identified in § 358.510(b).* "Wash affected area and dry thoroughly. Apply one drop at a time to sufficiently cover each corn/callus. Let dry. Repeat this procedure once or twice daily as needed for up to 14 days (until corn/callus is removed)." (Optional: "May soak corn/callus in warm water for 5 minutes to assist in removal.")

References

(1) Goodman, J.J., and L. Farris, "Evaluation of Safety and Effectiveness of 20% Salicylic Acid for the Removal of Soft Corns," (Scholl Study No. S–82–47), draft of unpublished study, Coded LET, Docket No. 81N–0122, Dockets Management Branch.

(2) "Physicians' Desk Reference for Nonprescription Drugs," 10th Ed., Medical Economics Co., Oradell, NJ, p. 739, 1989.

(3) Labels of currently marketed OTC corn/callus remover drug products included in OTC Volume 16IFM, Docket Number 81N–0122, Dockets Management Branch.

II. Summary of Significant Changes From the Proposed Rule

1. The agency is revising the introductory language in § 358.550 (b) and (b)(2) to clarify how the indications statements may be used and be consistent with the language used in other recently published final OTC drug monographs. (See comment 3 above.)

2. The agency is revising the warning proposed in § 358.550(c)(1)(ii) regarding use of corn/callus remover drug products by diabetics and is incorporating therein the warning proposed in § 358.550(c)(1)(iii). Based on this revision, the warning proposed in § 358.550(c)(1)(iv) is being redesignated as paragraph (c)(1)(iii). (See comment 4 above.)

3. The agency is revising the directions proposed in § 358.510 to give manufacturers the option of including information about soaking of the corn/callus in warm water for 5 minutes prior to removal. (See comment 5 above.)

III. The Agency's Final Conclusions on OTC Corn and Callus Remover Drug Products

Based on the available evidence, the agency is issuing a final monograph establishing conditions under which OTC corn and callus remover drug products are generally recognized as safe and effective and not misbranded. Specifically, the agency has determined that the only active ingredients that meet monograph conditions are salicylic acid 12 to 40 percent in a plaster vehicle and salicylic acid 12 to 17.6 percent in a collodion-like vehicle. All other ingredients for corn and callus removal that were considered in this rulemaking are considered nonmonograph ingredients, i.e., glacial acetic acid, allantoin, ascorbic acid, belladonna extract, chlorobutanol, diperodon hydrochloride, ichthammol, iodine, methylbenzethonium chloride, methyl salicylate, panthenol, phenoxyacetic acid, phenyl salicylate, vitamin A, and zinc chloride. Any drug product marketed for use as an OTC corn and callus remover that is not in conformance with the monograph (21 CFR part 358, subpart F) is considered a new drug within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(p)) and misbranded under section 502 of the act (21 U.S.C. 352) and can not be marketed for this use unless it is the subject of an approved application. An appropriate citizen petition to amend the monograph may also be submitted under 21 CFR 10.30.

No comments were received in response to the agency's request for specific comment on the economic impact of this rulemaking (52 FR 5412 at 5417). The agency has examined the economic consequences of this final rule in conjunction with other rules resulting from the OTC drug review. In a notice published in the **Federal Register** of February 8, 1983 (48 FR 5806), the agency announced the availability of an assessment of these economic impacts. The assessment determined that the combined impacts of all the rules resulting from the OTC drug review do not constitute a major rule according to the criteria established by Executive Order 12291. The agency therefore concludes that not one of these rules, including this final rule for OTC corn and callus remover drug products, is a major rule.

The economic assessment also concluded that the overall OTC drug review was not likely to have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (Pub. L. 96–354). That assessment included a discretionary regulatory flexibility analysis in the event that an individual rule might impose an unusual or disproportionate impact on small entities. However, this particular rulemaking for OTC corn and callus remover drug products is not expected to pose such an impact on small businesses. Therefore, the agency certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 358

Corn and callus remover drug products, Labeling, Over-the-counter drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act, subchapter D of chapter I of title 21 of the Code of Federal Regulations is amended in part 358 as follows:

PART 358—MISCELLANEOUS EXTERNAL DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

1. The authority citation for 21 CFR part 358 continues to read as follows:

Authority: Secs. 201, 501, 502, 503, 505, 510, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 353, 355, 360, 371).

2. Subparts C, D, and E are reserved and new subpart F, consisting of § 358.501 to § 358.550, is added to read as follows:

Subparts C and E—[Reserved]

Subpart F—Corn and Callus Remover Drug Products

Sec.

358.501 Scope.
358.503 Definitions.
358.510 Corn and callus remover active ingredients.
358.550 Labeling of corn and callus remover drug products.

Subparts C and E—[Reserved]

Subpart F—Corn and Callus Remover Drug Products

§ 358.501 Scope.

(a) An over-the-counter corn and callus remover drug product in a form suitable for topical application is generally recognized as safe and effective and is not misbranded if it

meets each of the conditions in this subpart and each of the general conditions established in § 330.1 of this chapter.

(b) References in this subpart to regulatory sections of the Code of Federal Regulations are to chapter I of title 21 unless otherwise noted.

§ 358.503 Definitions.

As used in this subpart:

(a) *Corn and callus remover drug product.* A topical agent used for the removal of corns and calluses.

(b) *Collodion-like vehicle.* A solution containing pyroxylin (nitrocellulose) in an appropriate nonaqueous solvent that leaves a transparent cohesive film when applied to the skin in a thin layer.

(c) *Plaster vehicle.* A fabric, plastic, or other suitable backing material in which medication is usually incorporated for topical application to the skin.

§ 358.510 Corn and callus remover active ingredients.

The product consists of any of the following active ingredients within the specified concentrations and in the dosage form established for each ingredient.

(a) Salicylic acid 12 to 40 percent in a plaster vehicle.

(b) Salicylic acid 12 to 17.6 percent in a collodion-like vehicle.

§ 358.550 Labeling of corn and callus remover drug products.

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as a "corn and callus remover."

(b) *Indications.* The labeling of the product states, under the heading "Indications," the phrase listed in paragraph (b)(1) of this section and may contain the additional phrase listed in paragraph (b)(2) of this section. Other truthful and nonmisleading statements, describing only the indications for use that have been established in paragraph (b) of this section, may also be used, as provided in § 330.1(c)(2) of this chapter, subject to the provisions of section 502 of the Federal Food, Drug, and Cosmetic Act (the act) relating to misbranding and the prohibition in section 301(d) of the act against the introduction or delivery for introduction into interstate commerce of unapproved new drugs in violation of section 505(a) of the act.

(1) "For the removal of corns and calluses."

(2) In addition to the information identified in paragraph (b)(1) of this section, the labeling of the product may contain the following statement: "Relieves pain by removing corns and calluses."

(c) *Warnings.* The labeling of the product contains the following warnings under the heading "Warnings":

(1) *For products containing any ingredient identified in § 358.510.* (i) "For external use only."

(ii) "Do not use this product on irritated skin, on any area that is infected or reddened, if you are a diabetic, or if you have poor blood circulation."

(iii) "If discomfort persists, see your doctor or podiatrist."

(2) *For any product formulated in a flammable vehicle.* (i) The labeling should contain an appropriate flammability signal word, e.g., "extremely flammable," "flammable," "combustible," consistent with 16 CFR 1500.3(b)(10).

(ii) "Keep away from fire or flame."

(3) *For any product formulated in a volatile vehicle.* "Cap bottle tightly and store at room temperature away from heat."

(4) *For any product formulated in a collodion-like vehicle.* (i) "If product gets into the eye, flush with water for 15 minutes."

(ii) "Avoid inhaling vapors."

(d) *Directions.* The labeling of the product contains the following information under the heading "Directions":

(1) *For products containing salicylic acid identified in § 358.510(a).* "Wash affected area and dry thoroughly." (If appropriate: "Cut plaster to fit corn/callus.") "Apply medicated plaster. After 48 hours remove the medicated plaster. Repeat this procedure every 48 hours as needed for up to 14 days (until corn/callus is removed)." (Optional: "May soak corn/callus in warm water for 5 minutes to assist in removal.")

(2) *For products containing salicylic acid identified in § 358.510(b).* "Wash affected area and dry thoroughly. Apply one drop at a time to sufficiently cover each corn/callus. Let dry. Repeat this procedure once or twice daily as needed for up to 14 days (until corn/callus is removed)." (Optional: "May soak corn/callus in warm water for 5 minutes to assist in removal.")

(e) The word "physician" may be substituted for the word "doctor" in any of the labeling statements in this section.

Dated: June 27, 1990.

James S. Benson,

Acting Commissioner of Food and Drugs.

[FR Doc. 90-19028 Filed 8-13-90; 8:45 am]

BILLING CODE 4160-01-M

federal register

Tuesday
August 14, 1990

Part V

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Final Frameworks for Early-Season Migratory Bird Hunting Regulations; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018-AA24

Final Frameworks For Early-Season Migratory Bird Hunting Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes final early-season frameworks from which States, Puerto Rico, and the Virgin Islands may select season dates, daily bag and possession limits, and other options for the 1990–91 migratory bird hunting season. These early seasons may open prior to October 1, 1990. The effects of this final rule are to facilitate the selection of hunting seasons by the States and Territories to further the annual establishment of the early-season migratory bird hunting regulations. State selections will be published in the **Federal Register** as amendments to §§ 20.101 through 20.106, and § 20.109 of title 50 CFR, part 20.

EFFECTIVE DATES: This rule takes effect on August 14, 1990.

ADDRESSES: Season selections from States and Territories are to be mailed to: Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Room 634—Arlington Square, Washington, DC 20240. Comments received are available for public inspection during normal business hours in Room 634, Arlington, Square Building, 4401 No. Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Thomas J. Dwyer, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Room 634—Arlington Square, Washington, DC 20240, (703) 358–1714.

SUPPLEMENTARY INFORMATION:

Regulations Schedule for 1990

On March 14, 1990, the Service published for public comment in the **Federal Register** (55 FR 9618) a proposal to amend 50 CFR part 20, with comment periods ending July 20, 1990, for early-season frameworks, and August 27, 1990, for late-season frameworks. A supplement proposed rulemaking for both early and late hunting season frameworks appeared in the **Federal Register** dated June 6, 1990 (55 FR 23178).

On June 21, 1990, a public hearing was held in Washington, D.C., as announced in the **Federal Register** of March 14 (55 FR 9618), June 6 (55 FR 23178), and June 8 (55 FR 23487), 1990, to review the status of migratory shore and upland game birds. Proposed hunting regulations were discussed for these species and for the other early seasons.

On July 10, 1990, the Service published in the **Federal Register** (55 FR 28352) a third document in the series of proposed and final rulemaking documents which dealt specifically with proposed early-season frameworks for the 1990–91 season.

This rulemaking is the fourth in the series, and deals specifically with final frameworks for early-season migratory bird hunting regulations from which wildlife conservation agency officials from States, Purerto Rico, and the Virgin Islands may select season dates and daily bag and possession limits for the 1990–91 season.

Special Assessments

The Service has completed assessments on several regulatory issues of duck harvest management. Two of these issues, shooting hours and September teal seasons, pertain to early-season regulations. The Service has, therefore, analyzed the comments received and developed long-term strategies to guide our future management decisions for these issues. Comments received and long-term strategies for the late-season issues will be discussed in the appropriate late-season **Federal Register** documents.

Shooting Hours.

Comments received: The Central and Atlantic Flyway Councils and the State of Florida recommended shooting hours beginning at one-half hour before sunrise for regular and special duck seasons. The Mississippi Flyway Council Regulations Committees recommended that shooting hours begin at one-half hour before sunrise for regular seasons but at sunrise during special duck seasons or where special circumstances exist. The Maryland Department of Natural Resources commented that a sunrise opening may have contributed to a decline in their duck harvest in 1988, and overly restricted the opportunity to harvest wood ducks.

Service strategy: The Service proposes to allow shooting hours to begin at one-half hour before sunrise during the regular duck season. For species-specific duck seasons, shooting hours will begin at sunrise. Currently, shooting hours begin at one-half hour before sunrise for September wood duck seasons; and States will be required to provide information to assess the impact of such shooting hours on non-target species, otherwise, shooting hours will be changed to sunrise. Shooting hours during all seasons shall end at sunset.

Service response: The Service believes that there is sufficient evidence to show that, for the regular duck seasons, shooting hours beginning at one-half hour before sunrise do not contribute significantly to the harvest of non-target species or illegal kill. Compared to the remainder of the day, the proportion of the daily duck kill occurring before sunrise is relatively small.

However, no evidence has been presented to assess the impact of presunrise shooting during special seasons in which only limited numbers of species may be harvested legally. Until studies are initiated or evidence is available, shooting hours for these seasons should begin at sunrise. Currently, shooting hours begin at one-half hour before sunrise for September wood duck seasons. States will be required to conduct studies or provide information to asess the impact of such shooting hours on non-target species. Otherwise, shooting hours will be changed to sunrise.

The evening twilight period is associated with rapidly decreasing illumination. Birds shot near the end of the twilight period could be difficult to find. A sunset closing provides ample time with adequate light to find and retrieve downed birds.

September Teal

Comments received: The Lower Region Regulations Committee of the Mississippi Flyway Council and the Central Flyway Council recommended continued use of September teal seasons. The Upper Region Regulations Committee of the Mississippi Flyway Council recommended the continued use of these seasons with additional requirements that would reinstate the season when teal populations increased, but would require improved information gathering for monitoring populations during periods of low duck abundance. The Maryland Forest, Park, and Wildlife Service and the Florida Game and Fresh Water Fish Commission recommended allowing special seasons for teal when population levels are determined to be satisfactory and the states can adequately evaluate the harvest.

Service strategy: The Service considers September teal seasons to be an acceptable harvest management strategy. September teal regulations (i.e., season length and bag limits) should be compatible with the Service's policy of permitting harvest opportunity consistent with duck population levels.

September teal seasons in the Central and Mississippi Flyways must follow the geographic and framework criteria that were operational during the last year they were offered by the Service.

Service response: The Service believes that September teal seasons have been thoroughly evaluated and modified in the Central and Mississippi Flyways to provide harvest opportunity on a segment of the blue-winged teal population that is generally unavailable during the regular duck seasons. The Service's review of available evidence suggests that September teal seasons are not responsible for the recent decline of blue-winged teal populations. Furthermore, the harvest of species other than teal during September seasons is low.

Review of Public Comments

Public hearing and written comments received through July 20, 1990, relating to proposed early-season frameworks are discussed and addressed here. These early-season comments are summarized and discussed below and are numbered in the same order used in the March 14, 1990, Federal Register (55 FR 9618). Only the numbered items pertaining to early-season comments are included.

1. Shooting Hours

Written comments: One individual from California supported the Service's proposal for early-season shooting hours beginning at one-half hour before sunrise and extending until sunset.

Response: These frameworks, unless otherwise specified, contain shooting hours of one-half hour before sunrise to sunset for migratory shore and upland game birds and for most early waterfowl seasons. For special duck seasons restricted to limited numbers of species, shooting hours will open at sunrise daily unless information can be accumulated to evaluate the impact of pre-sunrise shooting on non-target species. For experimental September ducks seasons, currently restricted to wood ducks only, shooting hours will open one-half hour before sunrise in 1990. The opening will change to sunrise in 1991 unless adequate existing information can be summarized or evaluation studies initiated prior to that time.

5. Sea Ducks

Written comments: One local organization from Massachusetts supported the Service's proposal for sea duck seasons of 107 days with bag and possession limits of 7 and 14.

Response: These frameworks continue the 107-consecutive-day season with bag and possession limits of 7 and 14 sea ducks.

6. September Teal Season

Public hearing comments: Mr. Ronnie R. George, representing the Central Flyway Council, supported reinstatement of the September teal season; and Mr. Charles Kelley, representing both the Alabama Game and Fish Commission and the Southeast Association of Fish and Wildlife Agencies, requested that the September teal season be reinstated at the appropriate time.

Written comments: The Lower Region Regulations Committee of the Mississippi Flyway Council recommends that the Service provide the option of a 3-day September teal season with a 3-teal daily bag limit in the southern portion of the Flyway. They further recommended that, if the teal season is reinstated, teal be included in the daily bag limit for the experimental September duck seasons. The Texas Parks and Wildlife Department opposed the continued suspension of the September teal season. The Wisconsin Department of Natural Resources and an individual from Texas supported the suspension of the September teal season for 1990.

Response: Blue-winged teal are currently at a record low population level for the second consecutive year. The potential for population response is diminished by substantial deterioration in the quality and quantity of wetlands and upland nesting cover on the breeding grounds. Although habitat conditions appear to be improving from recent years, the production outlook is not better than last year. Population recovery may take several years of improved conditions. Although band-recovery and harvest rates for bluewings are relatively low, little predictive information is available concerning the effects of harvest at this low population level. The Service recognizes that the continued suspension will eliminate substantial portions of the harvest in some areas and this may result in some unmeasured reduction in migration and wintering habitat. However, in view of the very poor population status, reinstatement of the September teal season is not warranted in 1990. The Service encourages private land managers to continue their habitat programs to benefit waterfowl at this time of the year, in anticipation of improved population status and future reinstatement of the September teal season.

8. Experimental September Duck Seasons

Written comments: The Lower Region Regulations Committee of the Mississippi Flyway Council recommended continuation of these seasons. The Tennessee Wildlife Resources Agency urged the Service to thoroughly analyze data and make its evaluations available to the States and Flyway Council prior to any action to further reduce or eliminate the seasons. One organization and 15 individuals from Tennessee supported the Service's proposal to continue the experimental September duck seasons for 1990.

Response: Efforts are underway to develop harvest strategies and broad-scale data-gathering programs for wood ducks. The Service proposes to continue the experimental seasons in 1990 to allow time for completion of these efforts.

14. Frameworks for Geese and Brant in the Conterminous United States—Outside Dates, Season Length and Bag Limits

Public hearing comments: Mr. Dwight LeBlanc, Acting Deputy Administrator for the Animal Damage Control program, U.S. Department of Agriculture, supported the use of early Canada goose seasons to help reduce or prevent crop depredation.

Written comments—a. *Atlantic flyway:* The Atlantic Flyway Council recommended that experimental early September Canada goose seasons be allowed for the western zone of Massachusetts and for northern St. Lawrence County, New York.

b. *Mississippi flyway:* The Upper Region Regulations Committee of the Mississippi Flyway Council recommended that an experimental early September Canada goose season be allowed for the metropolitan Milwaukee area of Wisconsin and that similar experimental seasons in Minnesota, Michigan, and Illinois be continued in 1990 to allow time for completion of the final reports. The Wisconsin Department of Natural Resources supported the September Canada goose season in that State.

c. *Pacific flyway:* The Pacific Flyway Council recommended that early September Canada goose seasons be allowed for the Lower Columbia River of Oregon and Washington and for Cache County in Utah. The Council further recommended that the special September Canada goose season in Wyoming be continued, but that the number of permits be reduced from 160 to 115.

Response: The 1990–91 frameworks provide for experimental September Canada goose seasons in New York, Massachusetts, Wisconsin, Utah, Oregon, and Washington and continuation of current experimental seasons. The frameworks also reflect a decrease in the number of permits available to Wyoming for the special season in that State.

16. Sandhill Cranes

Public hearing comments: Mr. Ronnie R. George, representing the Central Flyway Council, recommended continuation of the experimental hunts in Utah and in the Hatch/Deming area of New Mexico. He also supported operational status for the Middle Rio Grande Valley sandhill crane hunt. Mr.Dwight LeBlanc, Acting Deputy Administrator for the Animal Damage Control program, U.S. Department of Agriculture, supported the use of special sandhill crane seasons to help reduce or prevent crop depredation. Mr. John Anderson, representing the National Audubon Society, submitted a statement supporting the regulations for sandhill cranes.

Written comments: The Central and Pacific Flyway Councils recommended that the experimental season in the Middle Rio Grande Valley of New Mexico be granted operational status. The Central Flyway Council recommended continuation of the current experimental seasons. The Pacific Flyway Council recommended that the frameworks continue to allow the harvest of cranes in more than one State by a hunter on a given day, provided that the hunter does not exceed the Federal daily bag limit of 3 cranes. One local organization objects to the experimental hunt in Utah based on the possible harvest of locally breeding sandhill cranes when migrants do not arrive before the start of the hunt.

Response: The service grants operational status to the Middle Rio Grande Valley hunt. This hunt has been conducted within the hunt guidelines for four years on an experimental basis. The State of New Mexico has evaluated the hunt and provided final reports to the Service. In Utah, the timing of the September seasons has been purposefully early so as to minimize the likelihood of whooping cranes from the Grays Lake foster-parent program moving into a hunt area. In addition, part of the hunting strategy is directed at cranes causing local depredations. The 1990–91 frameworks contain no changes from those for 1989–90.

20. Common Snipe

Written Comments: The Pacific Flyway Council and the Lower Region Regulations Committee of the Mississippi Flyway Council recommended no change in the overall frameworks for snipe, while the Upper Region Regulations Committee of the Mississippi Flyway Council specifically recommended no change in the framework dates. The Louisiana Department of Wildlife and Fisheries opposed a change in framework dates.

Response: As a result of these comments, and the formation of a Webless Migratory Bird Technical Committee in the Mississippi Flyway, the Service is deferring the proposal to modify the framework dates until the 1991–92 regulations-development cycle. The Service will work with the Councils in the upcoming year to develop background material for this decision. However, without sufficient justification for continuing to hunt snipe in February, the Service will propose a change for the 1991–92 season.

21. Woodcock

Public hearing comments: Mr. John Anderson, representing the National Audubon Society, submitted a statement supporting the regulations for woodcock. He did, however, recommend investigating the issue of February hunting, and, if woodcock start nesting in February in southern states, the hunting season should probably close by January 31.

Written comments: The Lower Region Regulations Committee of the Mississippi Flyway Council recommended no change in the overall frameworks, while the Upper Region Regulations Committee of the Mississippi Flyway Council specifically recommended no change in the framework dates. The Tennessee Wildlife Resources Agency requested more time to properly evaluate the proposed modification in framework dates. The Louisiana Department of Wildlife and Fisheries opposed a change in framework dates for 1990–91 seasons, but provided suggestions for future framework dates. An individual from Texas recommended elimination of February hunting for woodcock. The Pennsylvania Game Commission supported continuation of the restrictive regulations for the Eastern Region.

Response: As a result of these comments, and the formation of a Webless Migratory Bird Technical Committee in the Mississippi Flyway, the Service is deferring the proposal to modify the framework dates until the 1991–92 regulations-development cycle. The Service will work with the Councils in the upcoming year to develop background material for this decision. However, without sufficient justification for continuing to hunt woodcock in February, the Service will propose a change for the 1991–92 season. The 1990–91 frameworks contain no change from those for 1989–90.

22. Band-tailed Pigeons

Written comments: The Pacific Flyway Council recommended that the daily bag limit be reduced from 4 to 2 pigeons and that the closing date for the northern zone of California be changed from October 15 to October 7. An individual from the State of Washington requested a closed season and increased research for the Pacific population of band-tailed pigeons.

Response: These frameworks for the Pacific population of band-tailed pigeons include a restricted bag limit of 2 birds and a modified closing date for the North Zone of California.

23. Mourning Doves

Public hearing comments: Mr. John Anderson, representing the National Audubon Society, submitted a statement supporting the regulations for mourning doves, particularly the continued restrictions in the Western Management Unit.

Written comments: The Pacific Flyway Council recommended no change for the frameworks for the Western Management Unit. Two individuals from California requested that the season be split into two equal 30-day segments. One of these individuals requested a 15-dove bag limit and the other requested that the season segments be in September and November.

Response: The Service believes that the same frameworks as were in effect in 1989–90 are also appropriate for 1990–91. These frameworks continue to allow a 60-day season for California that may be split between two periods, September 1 through 15 and November 1 through January 15, and with a bag limit that remains at 10.

24. White-winged and White-tipped Doves

Public hearing comments: Mr. Ronnie R. George, representing the Texas Parks and Wildlife Department, recommended continuation of the 4-day special white-winged dove hunting season. Mr. George stated that the special season provides a strong incentive for ongoing habitat preservation and management on private lands and that a possible alternative to the 4-day season is a 2-

consecutive-day special season combined with a statewide increase in the bag limit. Currently the aggregate bag limit of 12 doves may include no more than 2 whitewings. Under the alternative the aggregate bag limit of 12 doves would include no more than 5 whitewings. Mr. John Anderson, representing the National Audubon Society, submitted a statement reviewing the advantages and disadvantages of continuing the 4-day special season in Texas.

Written comments: The Pacific Flyway Council recommended no change in frameworks. In response to the Service's proposal to shorten the special season, the Texas Parks and Wildlife Department recommended continuing the 4-day special season and modifying the aggregate bag limit for the statewide regular mourning dove season to increase the allowable take of whitewings from 2 per day to 5 per day.

Response: In the March 14 and June 6, 1990, **Federal Registers** the Service indicated its intention to consider modification of the special white-winged dove season due to declining populations in the Lower Rio Grande Valley. In the July 10, 1990 **Federal Register** (55 FR 28352), the Service proposed to restrict the formerly 4-day season to 2 consecutive days and the final frameworks herein reflect that change. The request to modify the statewide aggregate bag limit to increase the number of whitewings allowed is a separate issue unrelated to the special season that warrants further review before such a change is considered. The Service remains concerned about the whitewing population in the Lower Rio Grande Valley, and if the population requires additional protection in 1991–92 the Service will consider suspending the special season.

25. Migratory Bird Hunting Seasons in Alaska

Written Comments: The Pacific Flyway Council recommended no change in frameworks for Alaska, but recognized that some adjustment may be needed later as more recent data become available on certain species.

Response: The 1990–91 frameworks contain no changes from those for 1989–90. However, the Service also recognizes that adjustments may be needed as more recent data become available on certain species.

26. Migratory Game Birds in Puerto Rico and Doves and Pigeons in the Virgin Islands

Written comments: The Commonwealth of Puerto Rico recommended that Vieques Island be closed to the hunting of doves and pigeons due to habitat destruction caused by Hurricane Hugo. They further recommended that the waterfowl frameworks be modified to eliminate hunting in February in Puerto Rico.

Response: The 1990–91 frameworks reflect these changes.

27. Migratory Game Birds Seasons for Falconers

Written comments: The North American Falconers Association supported the falconry regulations proposed for the 1990–91 season.

Response: The 1990–91 frameworks contain no changes from those for 1989–90.

Non-Toxic Shot

Waterfowl hunters are advised to become familiar with State and local regulations regarding the use and possession of steel shot for waterfowl hunting.

NEPA Consideration

NEPA considerations are covered by the programmatic document, "Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88–14)", filed with EPA on June 9, 1988. Notice of Availability was published in the **Federal Register** on June 16, 1988 (53 FR 22582). The Service's Record of Decision was published on August 18, 1988 (53 FR 31341). Copies of these documents are available from the Service at the address indicated under the caption **ADDRESSES.**

Endangered Species Act Consideration

On July 12, 1990, the Division of Habitat Conservation gave a biological opinion that the proposed action is not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of their critical habitats. Hunting regulations are designed, among other things, to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species and their habitats. The Service's biological opinion resulting from its consultation under section 7 is considered a public document and is available for inspection in the Division of Habitat Conservation and the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Room 634-Arlington Square, 4401 N. Fairfax Drive, Arlington, Virginia.

Regulatory Flexibility Act, Executive Order 12291 and the Paperwork Reduction Act

In the **Federal Register** dated March 14, 1990 (55 FR 9618), the Service reported measures it had undertaken to comply with requirements of the Regulatory Flexibility Act and the Executive order. These included preparing a Determination of Effects and revising the Final Regulatory Impact Analysis (FRIA). The revised FRIA, focusing on waterfowl hunting, was completed by the Service in June 1990. Preliminary economic information was utilized from the 1985 National Survey of Fishing, Hunting, and Wildlife Associated Recreation, which indicated that hunters expended $1,072 million for migratory bird hunting in 1985. Hunter expenditures were incurred for equipment and supplies; private and public transportation; food, drink, and refreshments; lodging; and fees. These expenditures benefit a large number of individuals and businesses, many of which would be classified "small businesses."

Analytical emphasis was placed on daily bag limit and season length alternatives for ducks, assuming that only a predetermined harvest could be extracted from the fall flight of ducks. Data used in the analysis were derived from national waterfowl harvest surveys and the 1985 National Hunting and Fishing Survey. Inasmuch as changes in season length and bag limit usually change together, neither can be analyzed independently. To facilitate conventional economic analysis, a Regulations Index or RI (the product of days of season times daily bag limit) was developed. The RI's were found to vary markedly by flyway, as did hunter participation and harvests in relation to the RI's. Many other factors influenced hunting activity, and consequently hunter expenditures. Hunters availed themselves of only about 4 percent of the hunting opportunity theoretically afforded by the Federal regulations.

Two major alternatives to the basic duck hunting regulations effective in 1985 were studied by conventional economics procedures. In Alternative 1 the daily bag limit was increased by one duck while the season length was appropriately reduced to ensure that the same theoretical harvest would be achieved. From the analysis, it was estimated that the $279 million expended by duck hunters under the basic regulations in effect in 1985 would have been reduced 2.6 percent, or $7.25 million, had this alternative been in effect. Under Alternative 2, a decrease

in the daily bag limit of 1 duck and a compensating season length increase to ensure that the same harvest would be achieved resulted in a theoretical economic gain of 6.7 percent, or $18.76 million. These findings are similar to those for 1975 but involve a smaller magnitude of change. Under both options, some redistribution of hunting opportunity and hence expenditures would result. Economic gains would materialize in some areas while others would experience economic losses.

These regulations have been determined to be major under Executive Order 12291 and they have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act. This determination is detailed in the aforementioned documents which are available upon request from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Room 634-Arlington Square, Department of the Interior, Washington, DC 20240. These regulations contain no information collection subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980.

Memorandum of Law

In the **Federal Register** dated March 14, 1990, (55 FR 9618) the Service stated that it planned to publish its Memorandum of Law for the 1990–91 migratory bird hunting regulations with its first final rulemaking.

Memorandum of law. Section 4 of the Executive Order 12291 requires that certain determinations be made before any final major rule may be approved. Section 4(a) specifies that the regulation must be clearly within the authority of law and consistent with congressional intent, and that a memorandum of law be provided to support that determination. Also, the agency must state that the factual conclusions upon which the law is based have substantial support in the agency record and that full attention has been given to public comments in general, and to comments of persons directly affected by the rule in particular.

The development of the annual migratory bird hunting regulations is provided under section 3 of the Migratory Bird Treaty Act (Act) of July 3, 1918, as amended (40 Stat. 755; 16 U.S.C. 701–711). The Act authorizes and directs the Secretary of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds, to determine when, to what extent, and by what means such birds or any part, nest, or egg thereof may be taken, hunted, capture, killed, possessed, sold, purchased, shipped, carried, exported, or transported. Such regulations for hunting have been promulgated annually since 1918. They appear in 50 CFR part 20, subpart K. Congressional support for the development of these rules and ancillary activities involved in their development are reflected in the Service's budget. Among these activities are biological surveys, hunter activity and harvest surveys, research investigations, law enforcement, and administrative costs associated with the development and publication of the proposed and final rules. Many other Service activities, such as the acquisition and management of habitats for migratory birds, indirectly assist in maintaining the migratory bird resource at levels which allow reasonable sport hunting harvest.

In developing its annual hunting rules for 1990–91, the Service has published three proposed rules for public comment and conducted one public hearing to facilitate public input into the rulemaking process. Four additional rulemakings, and another public hearing, are included in the remaining schedule for establishing the annual hunting regulations for 1990–91. Numerous public comments were summarized in **Federal Registers** listed in the preamble of this document. Many of these comments originated from affected State conservation agencies, while others were submitted by the affected public. Comments in support of the Service's initial or supplementary regulatory proposals are noted. Comments which do not support proposed Service action have been adequately addressed. Additional public comments are invited and will be addressed in subsequent **Federal Register** documents. The complete administrative record, including copies of public comments, is available for inspection at the Office of Migratory Bird Management.

Consequently, the Department has determined that it has fulfilled requirements of section 4 of Executive Order 12291 and the Migratory Bird Treaty Act in developing the 1990–91 migratory bird hunting regulations which are adequately supported by the Service's records.

Authorship

The primary author of this proposed rulemaking is William O. Vogel, Office of Migratory Bird Management, working under the direction of Thomas J. Dwyer, Chief.

Regulations Promulgation

The rulemaking process for migratory bird hunting regulations must, by its nature, operate under severe time constraints. However, the Service is of the view that every attempt should be made to give the public the greatest possible opportunity to comment on the regulations. Thus, when the proposed early-season rulemaking was published on July 10, 1990, the Service established what it believed was the longest period possible for public comment. In doing this, the Service recognized that at the close of the comment period, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the Service is of the opinion that States would have insufficient time to select their season dates and limits; to communicate those selections to the Service; and to establish and publicize the necessary regulations and procedures that implement their decisions.

Therefore, the Service, under authority of the Migratory Bird Treaty Act of July 3, 1918, as amended (40 Stat. 755; 16 U.S.C. 701–711), prescribes final frameworks setting forth the species to be hunted, the daily bag and possession limits, the shooting hours, the season lengths, the earliest opening and latest closing season dates, and hunting areas, from which State conservation agency officials may select hunting season dates and other options. Upon receipt of season and option selections from State officials, the Service will publish in the **Federal Register** a final rulemaking amending 50 CFR part 20 to reflect seasons, limits, and shooting hours for the contiguous United States, Alaska, Puerto Rico, and the Virgin Islands, for the 1990–91 season.

The Service therefore finds that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these frameworks will, therefore, take effect immediately upon publication.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Transportation, Wildlife.

The rules that eventually will be promulgated for the 1990–91 hunting season are authorized under the Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 701–711), and the Fish and Wildlife Improvement Act of 1978 (92 Stat. 3112; 16 U.S.C. 712).

Dated: August 2, 1990.

Constance B. Harriman,

Assistant Secretary for Fish and Wildlife and Parks.

Final Regulations Frameworks for 1990–91 Early Hunting Seasons on Certain Migratory Birds

Pursuant to the Migratory Bird Treaty Act, and delegated authorities, the Director has approved final frameworks which prescribe season lengths, bag limits, shooting hours, and outside dates within which States may select seasons for mourning, white-winged and white-tipped doves; band-tailed pigeons; rails; moorhens and gallinules; American woodcock; common snipe; sandhill cranes; early (September) waterfowl seasons; extended falconry seasons; and migratory birds in Alaska, Puerto Rico and the Virgin Islands.

Notice

Any State desiring its early hunting seasons to open in September must make its selection no later than August 9, 1990. States desiring these seasons to open after September 30 may make their selections at the time they select regular waterfowl seasons. Atlantic Flyway coastal States desiring their seasons on sea ducks in certain defined areas to open in September must also make their selections no later than August 9, 1990.

All outside dates noted below are inclusive and all shooting hours are between one-half hour before sunrise and sunset daily for all species except as noted below. The hours noted here and elsewhere also apply to hawking (taking by falconry).

Mourning Doves

Outside Dates. Between September 1, 1990, and January 15, 1991, except as otherwise provided, States may select hunting seasons and bag limits as follows:

Eastern Management Unit

(All States east of the Mississippi River and Louisiana).

Hunting Seasons, and Daily Bag and Possession Limits

Not more than 70 days with bag and possession limits of 12 and 24, respectively.

Not more than 60 days with bag and possession limits of 15 and 30, respectively,

or

Hunting seasons may be split into not more than 3 periods under either option.

Zoning: Alabama, Georgia, Louisiana and *Mississippi,* may elect to zone their States as follows:

A. Two zones per State having the following descriptions or division lines:

Alabama—South Zone: Mobile, Baldwin, Escambia, Covington, Coffee, Geneva, Dale, Houston and Henry Counties. North Zone: Remainder of the State.

Georgia—North Zone: That portion of the State lying north of a line running west to east along U.S. Highway 280 from Columbus to Wilcox County, thence southward along the western border of Wilcox County, thence east along the southern border of Wilcox County to the Ocmulgee River, thence north along the Ocmulgee River to Highway 280, thence east along Highway 280 to the Little Ocmulgee River; thence southward along the Little Ocmulgee River to the Ocmulgee River; thence southwesterly along the Ocmulgee River to the western border of Jeff Davis County; thence south along the western border of Jeff Davis County; thence east along the southern border of Jeff Davis and Appling Counties; thence north along the eastern border of Appling County to the Altamaha River; thence east to the eastern border of Tattnall County; thence north along the eastern border of Tattnall County; thence north along the western border of Evans to Candler County; thence east along the northern border of Evans to Bulloch County; thence north along the western border of Bulloch County to Highway 301; thence northeast along Highway 301 to the South Carolina line. *South Zone:* Remainder of the State.

Louisiana—Interstate Highway 10 from the Texas State line to Baton Rouge, Interstate Highway 12 from Baton Rouge to Slidell and Interstate Highway 10 from Slidell to the Mississippi State line.

Mississippi—U.S. Highway 84.

B. Within each zone, these States may select hunting seasons of not more than 70 days (or 60 under the alternative) which may be split into not more than 3 periods.

C. The hunting seasons in the South Zones of *Alabama, Georgia, Louisiana* and *Mississippi* may commence no earlier than September 20, 1990.

D. Regulations for bag and possession limits, season length, and shooting hours must be uniform within specific hunting zones.

Central Management Unit

(Arkansas, Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas and Wyoming).

Hunting Seasons and Daily Bag and Possession Limits:

Not more than 70 days with bag and possession limits of 12 and 24, respectively,

or

Not more than 60 days with bag and possession limits of 15 and 30, respectively.

Hunting seasons may be split into not more than 3 periods under either option.

Texas Zoning—As an alternative to the basic frameworks, *Texas* may select hunting seasons for each of 3 zones described below.

North Zone—That portion of the State north of a line beginning at the International Bridge south of Fort Hancock; north along FM 1088 to State Highway 20; west along State Highway 20 to State Highway 148; north along State Highway 148 to Interstate Highway 10 at Fort Hancock; east along Interstate Highway 10 to Interstate Highway 20; northeast along Interstate Highway 20 to Interstate Highway 30 at Fort Worth; northeast along Interstate Highway 30 to the Texas-Arkansas State line.

South Zone—That portion of the State south and west of a line beginning at the International Bridge south of Fort Hancock; north along FM 1088 to State Highway 20; west along State Highway 20 to State Highway 148; north along State Highway 148 to Interstate Highway 10 at Fort Hancock; east along Interstate Highway 10 to Van Horn, south and east on U.S. 90 to San Antonio; then east on Interstate 10 to Orange, Texas.

Special White-Winged Dove Area in the South Zone—That portion of the State south and west of a line beginning at the International Bridge south of Fort Hancock; north along FM 1088 to State Highway 20; west along State Highway 20 to State Highway 148; north along State Highway 148 to Interstate Highway 10 at Fort Hancock; east along Interstate Highway 10 to Van Horn, south and east on U.S. Highway 90 to Uvalde, south on U.S. Highway 83 to State Highway 44; east along State Highway 44 to State Highway 16 at Freer; south along State Highway 16 to State Highway 285 at Hebbronville; east along State Highway 285 to FM 1017; southeast along FM 1017 to State Highway 186 at Linn; east along State Highway 186 to the Mansfield Channel at Port Mansfield; east along the Mansfield Channel to the Gulf of Mexico.

Central Zone—That portion of the State lying between the North and South

Zones. Hunting seasons in these zones are subject to the following conditions:

A. The hunting season may be split into not more than 2 periods, except that, in that portion of *Texas* where the special 2-consecutive-day white-winged dove season is allowed, a limited mourning dove season may be held concurrently with the white-winged dove season and with shooting hours coinciding with those for white-winged doves (see white-winged dove frameworks).

B. Each zone may have a season of not more than 70 days (or 60 under the alternative). The North and Central zones may select a season between September 1, 1990 and January 25, 1991; the South Zone between September 20, 1990 and January 25, 1991.

C. Except during the special 2-consecutive-day white-winged dove season in the South Zone, each zone may have an aggregate daily bag limit of 12 doves (or 15 under the alternative), no more than 2 of which may be white-winged doves and no more than 2 of which may be white-tipped doves. The possession limit is double the daily bag limit.

D. Regulations for bag and possession limits, season length, and shooting hours must be uniform within each hunting zone.

Western Management Unit

(Arizona, California, Idaho, Nevada, Oregon, Utah and Washington).

Hunting Seasons, and Daily Bag and Possession Limits:

Idaho, Nevada, Oregon, Utah and Washington—Not more than 30 consecutive days. Bag and possession limits, 10/20 mourning doves (in *Nevada*, the daily bag and possession limits of mourning and white-winged dove may not exceed 10/20, respectively, singly or in the aggregate).

Arizona and California—Not more than 60 days to be split between two periods, September 1–15, 1990, and November 1, 1990–January 15, 1991. Bag and possession limits: in *Arizona* the daily bag limit is 10 mourning and white-winged doves in the aggregate of which no more than 6 may be white-winged doves. The possession limit is twice the daily bag limit. In California the bag and possession limits for mourning and white-winged doves are 10 and 20, singly or in the aggregate.

White-Winged Doves

Outside Dates: Arizona, California, Nevada, New Mexico, and *Texas* (except as shown below) may select hunting seasons between September 1 and December 31, 1990. *Florida* may select its hunting season between September 1, 1990 and January 15, 1991.

Arizona may select a hunting season of not more than 30 consecutive days running concurrently with the first segment of the mourning dove season. The daily bag limit may not exceed 10 mourning and white-winged doves in the aggregate, no more than 6 of which may be white-winged doves. The possession limit is twice the daily bag limit.

Florida may select a white-winged dove season of not more than 70 days (or 60 under the alternative for mourning doves) to be held between September 1, 1990 and January 15, 1991, and coninciding with the mourning dove season. The aggregate daily bag and possession limits of mourning and white-winged doves may not exceed 12 and 24 (or 15 and 30 if the 60-day option for mourning doves is selected), respectively; however, for either option, the aggregate bag and possession limits include no more than 4 and 8 white-winged doves, respectively.

In the *Nevada* counties of Clark and Nye, and in the *California* counties of Imperial, Riverside, and San Bernardino, the aggregate daily bag and possession limits of mourning and white-winged doves may not exceed 10 and 20, respectively, and the season will be concurrent with the season on mourning doves.

New Mexico may select a hunting season with daily bag and possession limits not to exceed 12 and 24 (or 15 and 30 if the 60-day option for mourning doves is selected) white-winged and mourning doves, respectively, singly or in the aggregate of the 2 species. Dates, limits, and hours will conform with those for mourning doves.

Texas may select a white-winged dove season of not more than 70 days (or 60 under the alternative for mourning doves) to be held between September 1, 1990, and January 25, 1991, and coninciding with the mourning dove season. The daily bag limit may not exceed 12 white-winged, mourning and white-tipped doves (or 15 under the alternative) in the aggregate, of which not more than 2 may be white-winged doves and not more than 2 may be white-tipped doves. The possession limit may not exceed 24 white-winged, mourning and white-tipped doves (or 30 under the alternative) in the aggregate, of which not more than 4 may be white-winged doves and not more than 4 may be white-tipped doves.

and

In addition, *Texas* may also select a hunting season of not more than 2 consecutive days for the special white-winged dove area of the South Zone. In that portion of the special area north and west of Del Rio, the daily bag limit may not exceed 10 white-winged, mourning, and white-tipped doves in the aggregate, of which no more than 2 may be white-tipped doves; the possession limit may not exceed 20 doves in the aggregate, of which no more than 4 may be white-tipped doves. In that portion of the special area south and east of Del Rio, the daily bag limit may not exceed 10 white-winged, mourning, and white-tipped doves in the aggregate, of which no more than 5 may be mourning doves and 2 may be white-tipped doves; the possession limit may not exceed 20 doves in the aggregate, of which no more than 10 may be mourning doves and 4 may be white-tipped doves.

Band-Tailed Pigeons

Pacific Coast States and Nevada: California, Oregon, Washington and the *Nevada* counties of Carson City, Douglas, Lyon, Washoe, Humboldt, Pershing, Churchill, Mineral and Storey.

Outside Dates: Between September 15, 1990, and January 1, 1991.

Hunting Seasons, and Daily Bag and Possession Limits: Not more than 16 consecutive days, with bag and possession limits of 2 and 2, respectively.

Zoning: California may select hunting seasons of 16 consecutive days in each of the following two zones:

1. *North Zone*—In the counties of Alpine, Butte, Del Norte, Glenn, Humboldt, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama and Trinity; and
2. *South Zone*—The remainder of the State.

The season in the north zone of *California* must close by October 7.

Four-Corners States: Arizona, Colorado, New Mexico and *Utah.*

Outside Dates: Between September 1 and November 30, 1990.

Hunting Seasons, and Daily Bag and Possession Limits: Not more than 30 consecutive days, with bag and possession limits of 5 and 10, respectively.

Areas: These seasons shall be open only in the areas delineated by the respective States in their hunting regulations.

Zoning: New Mexico may be divided into North and South Zones along a line following U.S. Highway 6 from the Arizona State line east to Interstate Highway 25 at Socorro and south along Interstate Highway 25 from Socorro to the Texas State line. Hunting seasons not to exceed 20 consecutive days may be selected between September 1 and November 30, 1990, in the North Zone

and October 1 and November 30, 1990, in the South Zone.

Rails

Outside Dates: States included herein may select seasons between September 1, 1990, and January 20, 1991, on clapper, king, sora and Virginia rails as follows:

Hunting Seasons: The season may not exceed 70 days. Any State may split its season into two segments.

Clapper and King Rails

Daily Bag and Possession Limits: In *Rhode Island, Connecticut, New Jersey, Delaware,* and *Maryland,* 10 and 20 respectively, singly or in the aggregate of the two species.

In *Texas, Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina,* and *Virginia,* 15 and 30, respectively, singly or in the aggregate of the two species.

Sora and Virginia Rails

Daily Bag and Possession Limits: In the Atlantic, Mississippi and Central Flyways and portions of *Colorado, Montana, New Mexico* and *Wyoming* in the Pacific Flyway, 25 daily and 25 in possession, singly or in the aggregate of the two species. The season is closed in the remainder of the Pacific Flyway.

American Woodcock

Outside Dates: States in the Atlantic Flyway may select hunting seasons between October 1, 1990, and January 31, 1991. States in the Central and Mississippi Flyways may select hunting seasons between September 1, 1990, and February 28, 1991.

Hunting Seasons, and Daily Bag and Possession Limits: In the Atlantic Flyway, seasons may not exceed 45 days, with daily bag and possession limits of 3 and 6, respectively, in the Central and Mississippi Flyways, seasons may not exceed 65 days, with daily bag and possession limits of 5 and 10, respectively. Seasons may be split into two segments.

Zoning: New Jersey may select seasons by north and south zones divided by State Highway 70. The season in each zone may not exceed 35 days.

Common Snipe

Outside Dates: Between September 1, 1990, and February 28, 1991. In *Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland* and *Virginia* the season must end no later than January 31.

Hunting Seasons, and Daily Bag and Possession Limits: Seasons may not exceed 107 days and may be split into two segments. Bag and possession limits are 8 and 16, respectively.

Common Moorhens and Purple Gallinules

Outside Dates: September 1, 1990, through January 20, 1991, in the Atlantic and Mississippi Flyways and September 1, 1990, through January 21, 1991, in the Central Flyway. States in the Pacific Flyway must select their hunting seasons to coincide with their duck seasons, therefore, they are late-season frameworks and no proposals are provided in this document concerning common moorhens or purple gallinules in the Pacific Flyway.

Hunting Seasons, and Daily Bag and Possession Limits: Seasons may not exceed 70 days in the Atlantic, Mississippi, and Central Flyways. Seasons may be split into two segments. Bag and possession limits are 15 and 30 common moorhens and purple gallinules, singly or in the aggregate of the two species, respectively.

Sandhill Cranes

Regular Seasons in the Central Flyway:

Seasons not to exceed 58 days between September 1, 1990, and February 28, 1991, may be selected in the following States: *Colorado* (the Central Flyway portion except the San Luis Valley); *Kansas; Montana* (the Central Flyway portion except that area south of I–90 and west of the Bighorn River); *North Dakota* (west of U.S. 281); *South Dakota;* and *Wyoming* (in the counties of Campbell, Converse, Crook, Goshen, Laramie, Niobrara, Platte and Weston).

For the remainder of the flyway, seasons not to exceed 93 days between September 1, 1990, and February 28, 1991, may be selected in the following States: *New Mexico* (the counties of Chaves, Curry, DeBaca, Eddy, Lea, Quay and Roosevelt); *Oklahoma* (that portion west of I–35); and *Texas* (that portion west of a line from Brownsville along U.S. 77 to Victoria; U.S. 87 to Placedo; Farm Road 616 to Blessing; State 35 to Alvin; State 6 to U.S. 290; U.S. 290 to I–35 at Austin; I–35 to I–35W; I–35W to the Texas-Oklahoma boundary).

Bag and Possession Limits: 3 and 6, respectively.

Permits: Each person participating in the regular sandhill crane seasons must obtain and have in his possession, while hunting, a valid Federal sandhill crane hunting permit.

Special Seasons in the Central and Pacific Flyways:

Arizona, Colorado, Idaho, New Mexico, Utah and *Wyoming* may select seasons for hunting sandhill cranes within the range of the Rocky Mountain Population (as described in a management plan approved March 22, 1982 (revised July 28, 1987), by the Central and Pacific Flyway Councils) subject to the following conditions:

1. Outside dates are September 1—November 30, 1990, except September 1, 1990—January 31, 1991, in the Hatch-Deming Area (Zone) in *New Mexico* (Sierra, Luna, and Dona Ana Counties).

2. Season(s) in any State or zone may not exceed 30 days.

3. Daily bag limits may not exceed 3 and season limits may not exceed 9.

4. Participants must have in their possession while hunting a valid permit issued by the appropriate State.

5. Numbers of permits, areas open and season dates, protection plans for other species, and other provisions of seasons are consistent with the management plan and approved by the Central and Pacific Flyway Councils.

6. All hunts except those in *Arizona, New Mexico* (Middle Rio Grande Valley), and *Wyoming* will be experimental.

Scoter, Eider, and Oldsquaw Ducks (Atlantic Flyway)

Outside Dates: Between September 15, 1990, and January 20, 1991.

Hunting Seasons, and Daily Bag and Possession Limits: Not to exceed 107 consecutive days, with bag and possession limits of 7 and 14, respectively, singly or in the aggregate of these species.

Bag and Possession Limits During Regular Duck Season: Within the special sea duck areas, during the regular duck season in the Atlantic Flyway, States may set, in addition to the limits applying to other ducks during the regular duck season, a daily limit of 7 and a possession limit of 14 scoter, eider and oldsquaw ducks, singly or in the aggregate of these species.

Areas: In all coastal waters and all waters of rivers and streams seaward from the first upstream bridge in *Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut* and *New York;* in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 1 mile of open water from any shore, island, and emergent vegetation in *New Jersey, South Carolina,* and *Georgia;* and in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 800 yards of open water from any shore, island, and emergent vegetation in *Delaware, Maryland, North Carolina* and *Virginia;* and provided that any such areas have

been described, delineated, and designated as special sea duck hunting areas under the hunting regulations adopted by the respective States. In all other areas of the States and in all other States in the Atlantic Flyway, sea ducks may be taken only during the regular open season for ducks and they must be included in the regular duck season daily bag and possession limits.

Special September Wood Duck Seasons

Florida: An experimental 5-consecutive-day wood duck season may be selected in September. The daily bag limit will be 3 wood ducks and the possession limit will be double the daily bag limit.

Tennessee and Kentucky: Experimental 5-consecutive-day wood duck seasons may be selected in September. The daily bag limit will be 2 wood ducks and the possession limit will be double the daily bag limit.

Special Early-September Canada Goose Seasons

Atlantic and Mississippi Flyways

Experimental Canada goose seasons of up to 10 consecutive days may be selected in September by *Massachusetts, Michigan, Illinois, New York, North Carolina, Minnesota,* and *Wisconsin,* subject to the following conditions:

1. Outside dates for the season are September 1–10, 1990.

2. The daily bag and possession limits will be no more than 5 and 10 Canada geese, respectively.

In *North Carolina,* hunting will be by State permit to take not more than 2 Canada geese daily and 4 in possession.

In *New York,* hunting will be by State permit to take not more than 3 Canada geese daily and 6 in possession.

3. Areas open to the hunting of Canada geese are as follows:

Massachusetts

Western Zone—That portion of the State west of a line extending from the Vermont line at Interstate 91, south to Route 9, west on Route 9 to Route 10, south on Route 10 to Route 202, south on Route 202 to the Connecticut line.

Michigan

Lower Peninsula—All areas except the Shiawassee River, Allegan, Lapeer and Muskegon State Game Areas (SGA), the Shiawassee National Wildlife Refuge, that portion of the Maple River SGA east of State Road, that portion of the Pointe Mouillee SGA south of the Huron River, Muskegon County Wastewater Area, and the Fish Point and Nayanquing Point Wildlife Areas.

Upper Peninsula—That area bounded by a line beginning at the Michigan/Wisconsin border in Green Bay and extending north through the center of Little Bay De Noc and the center of White Fish River to U.S. Highway 2, east along U.S. Highway 2 to Interstate Highway 75, north along Interstate Highway 75 to State Highway 28, west along State Highway 28 to State Highway 221, then north along State Highway 221 to Brimley, then north to the Michigan/Ontario border.

Illinois: McHenry, Lake, Kane, DuPage, Cook, Kendall, Grundy, Will, and Kankakee Counties.

New York:

St. Lawrence County—All or portions of St. Lawrence County; see State hunting regulations for area descriptions.

North Carolina: That portion of the State west of Interstate 95; see State hunting regulations for area descriptions.

Minnesota

Twin Cities Metropolitan Zone—All or portions of Anoka, Washington, Ramsey, Hennepin, Carver, Scott and Dakota Counties.

Fergus Falls/Alexandria Zone—All or portions of Pope, Douglas, Otter Tail, Wilkin, and Grant Counties.

Southwest Border Zone—All or portions of Martin and Jackson Counties.

Wisconsin

Early Goose Hunt Subzone—That area bounded by a line beginning at Lake Michigan in Port Washington and extending west along Highway 33 to Highway 175, south along Highway 175 to Highway 83, south along Highway 83 to Highway 36, southwest along Highway 36 to Highway 120, south along Highway 120 to Highway 12, then southeast along Highway 12 to the Illinois State line.

4. Areas open to hunting must be described, delineated, and designated as such in each State's hunting regulations.

Pacific Flyway

Wyoming may select a September season on Canada geese subject to the following conditions:

1. The season must be concurrent with the September Sandhill crane season.

2. Outside dates for the season(s) are September 1–22, 1990.

3. Hunting will be by State permit.

4. No more than 115 permits, in total, may be issued for the Salt River (Star Valley) and Bear River Areas in Lincoln County.

5. Each permittee may take no more than 2 geese per season.

Utah may select an experimental special season on Canada geese in Cache County subject to the following conditions:

1. A season not to exceed 4 days during September 1–9, 1990.

2. Hunting will be by State permit.

3. Not more than 200 permits may be issued.

4. Each permittee may take 2 Canada geese per season.

Oregon and *Washington* may select an experimental season on Canada geese subject to the following conditions:

1. The seasons in *Oregon* and *Washington* must be concurrent.

2. The seasons must not exceed 10 days during September 1–10, 1990.

3. Areas open to hunting Canada geese are:

Oregon—Starting in Portland at the Interstate Highway 5 bridge, south on I–5 to U.S. Highway 30, west on U.S. Highway 30 to the Astoria-Megler bridge, from the Astoria-Megler bridge along the Oregon-Washington State line to the point of beginning.

Washington—Starting in Vancouver at the Interstate Highway 5 bridge north on I–5 to Kelso, west on State Highway 4 from Kelso to State Highway 401, south and west on State Highway 401 to the Astoria-Megler bridge, from the Astoria-Megler bridge along the Washington-Oregon State line to the point of beginning.

4. Hunting will be by State permit.

5. Each permittee may take 2 Canada geese per day and have 4 in possession.

Special Falconry Regulations

Falconry is a permitted means of taking migratory game birds in any State meeting Federal falconry standards in 50 CFR 21.29(k). These States may select an extended season for taking migratory game birds in accordance with the following:

Extended Seasons: For all hunting methods combined, the combined length of the extended season, regular season, and any special or experimental seasons shall not exceed 107 days for any species or group of species in a geographical area. Each extended season may be divided into a maximum of 3 segments.

Framework Dates: Seasons must fall between September 1, 1990 and March 10, 1991.

Daily Bag and Possession Limits: Falconry daily bag and possession limits for all permitted migratory game birds shall not exceed 3 and 6 birds, respectively, singly or in the aggregate,

during extended falconry seasons, any special or experimental seasons, and regular hunting seasons in all States, including those that do not select an extended falconry season.

Regular Seasons: General hunting regulations, including seasons and hunting hours, apply to falconry in each State listed in 50 CFR 21.29(k). Regular season bag and possession limits do not apply to falconry. The falconry bag limit is not in addition to gun limits.

Note: Total season length for all hunting methods combined shall not exceed 107 days for any species or group of species in one geographical area. The extension of this framework to include the period from September 1 to March 10, and the option to split the extended falconry season into a maximum of 3 segments are considered tentative, and will be evaluated, in cooperation with States offering such extensions, after a period of several years.

Final Frameworks for Selecting Open Season Dates for Hunting Migratory Birds in Alaska, 1990–1991

Outside Dates: Between September 1, 1990, and January 26, 1991, *Alaska* may select seasons on waterfowl, snipe, cranes, and tundra swans subject to the following limitations:

Hunting seasons

Ducks, geese and brant—107 consecutive days for ducks, geese, and brant in each of the following: North Zone (State Game Management Units 11–13 and 17–26); Gulf Coast Zone (State Game Management Units 5–7, 9, 14–16, and 10—Unimak Island only); Southeast Zone (State Game Management Units 1–4); Pribilof and Aleutian Islands Zone (State Game Management Unit 10—except Unimak Island); Kodiak Zone (State Game Management Unit 8). The season may be split without penalty in the Kodiak Zone. *Exceptions:* The season is closed on Canada geese from Unimak Pass westward in the Aleutian Island chain. Throughout the State there is no open hunting season for Aleutian Canada geese, cackling Canada geese and emperor geese.

Snipe and sandhill cranes—An open season should be concurrent with the duck season.

Daily Bag and Possession Limits

Ducks—Except as noted, a basic daily bag limit of 5 and a possession limit of 15 ducks. Daily bag and possession limits in the North Zone are 8 and 24, and in the Gulf Coast Zone they are 6 and 18 respectively. The basic limits included no more than 2 pintails daily and 6 pintails in possession, and 2 canvasback daily and 6 canvasback in possession. In addition to the basic limit, there is a daily bag limit of 15 and possession limit of 30 scoter, eider, oldsquaw, harlequin, and common and red-breasted mergansers, singly or in the aggregate of these species.

Geese—A basic daily bag limit of 6 and a possession limit of 12, of which not more than 4 daily and 8 in possession may be greater white-fronted or Canada geese, singly or in the aggregate of these species.

Brant—A daily bag limit of 2 and a possession limit of 4.

Common snipe—A daily bag limit of 8 and a possession limit of 16.

Sandhill cranes—A daily bag limit of 3 and a possession limit of 6.

Tundra swans—In Game Management Unit 22 an experimental open season for tundra swans may be selected subject to the following conditions:

1. No more than 300 permits may be issued, authorizing each permittee to take 1 tundra swan.
2. The season must be concurrent with the duck season.
3. The appropriate State agency must issue permits, obtain harvest and hunter-participation data, and report the results of this hunt to the Service by June 1, 1991.

Final Frameworks for Selecting Open Season Dates for Hunting Migratory Birds in Puerto Rico, 1990–1991

Doves and Pigeons

Outside Dates: Puerto Rico may select hunting seasons between September 1, 1990, and January 15, 1991, as follows:

Hunting Seasons: Not more than 60 days for Zenaida, mourning, and white-winged doves, and scaly-naped pigeons.

Daily Bag and Possession Limits: Not to exceed 10 doves of the species named herein, singly or in the aggregate, and not to exceed 5 scaly-naped pigeons.

Closed Areas

Vieques Island—closed due to habitat destruction caused by hurricane Hugo.

Municipality of Culebra and Desecheo Island—closed under Commonwealth regulations.

Mona Island—closed in order to protect the reduced population of white-crowned pigeon (*Columba leucocephala*), known locally as "Paloma cabeciblanca."

El Verde closure area—consisting of those areas of the municipalities of Rio Grande and Loiza delineated as follows: (1) all lands between Routes 956 on the west and 186 on the east, from Route 3 on the north to the juncture of Routes 956 and 186 (Km 13.2) in the south; (2) all lands between Routes 186 and 966 from the juncture on 186 and 966 on the north, to the Caribbean National Forest Boundary on the south; (3) all lands lying west of Route 186 for one kilometer from the juncture of Routes 186 and 956 south to Km 6 on Route 186; (4) all lands within Km 14 and Km 6 on the west and the Caribbean National Forest Boundary on the east; and (5) all lands within the Caribbean National Forest Boundary whether private or public. The purpose of this closure is to afford protection to the Puerto Rican parrot (*Amazona vittata*) presently listed as an endangered species under the Endangered Species Act of 1973.

Cidra Municipality and Adjacent Areas consisting of all of Cidra Municipality and portions of Aguas, Buenas, Caguas, Cayer, and Comerio Municipalities as encompassed within the following boundary: beginning on Highway 172 as it leaves the Municipality of Cidra on the west edge, north to Highway 156, east on Highway 156 to Highway 1, south on Highway 1 to Highway 765, south on Highway 765 to Highway 763, south on Highway 763 to the Rio Guavate, west along Rio Guavate to Highway 1, southwest on Highway 1 to Highway 14, west on Highway 14 to Highway 729, north on Highway 729 to Cidra Municipality, and westerly, northerly, and easterly along the Cidra Municipality boundary to the point of beginning. The purpose of this closure is to protect the Plain pigeon (*Columba inornata wetmorei*, locally known as "Paloma Sabanera," which is present in the above locale in small numbers and is presently listed as an endangered species under the Endangered Species Act of 1973.

Ducks, Coots, Moorhens, Gallinules and Snipe

Outside Dates: Between October 1, 1990, and January 31, 1991, Puerto Rico may select hunting seasons as follows.

Hunting Seasons: Not more than 55 days may be selected for hunting ducks, common moorhens, and common snipe. The season may be split into two segments.

Daily Bag and Possession Limits

Ducks—Not to exceed 3 daily and 6 in possession, except that the season is closed on the ruddy duck (*Oxyura jamaicensis*); the White-cheeked pintail (*Anas bahamensis*); West Indian whistling (tree) duck (*Dendrocygna arborea*); fulvous whistling (tree) duck (*Dendrocygna bicolor*), and the masked duck (*Oxyura dominica*), which are protected by the Commonwealth of Puerto Rico.

Common moorhens—Not to exceed 6 daily and 12 in possession; the season is closed on purple gallinules (*Porphyrula martinica*).

Common snipe—Not to exceed 6 daily and 12 in possession.

Coots—There is no open season on coots, i.e. common coots (*Fulica american*) and Caribbean coots (*Fulica caribaea*).

Closed Areas: There is no open season on ducks, common moorhens, and common snipe in the Municipality of Culebra and on Desecheo Island.

Final Frameworks for Selecting Open Season Dates for Hunting Migratory Birds in the Virgin Islands, 1990–1991

Doves and Pigeons

Outside Dates: The *Virgin Islands* may select hunting seasons between September 1, 1990, and January 15, 1991, as follows.

Hunting Seasons: Not more than 60 days for Zenaida doves and scaly-naped pigeons throughout the Virgin Islands.

Daily Bag and Possession Limits: Not to exceed 10 Zenaida doves and 5 scaly-naped pigeons.

Closed Seasons: No open season is prescribed for ground or quail doves, or other pigeons in the Virgin Islands.

Local Names for Certain birds

Zenaida dove (*Zenaida aurita*)—mountain dove.

Bridled quali dove (*Geotrygon mystacea*)—Barbary dove, partridge (protected).

Common Ground dove (*Columba passerina*)—stone dove, tobacco dove, rola, tortolita (protected).

Scaly-naped pigeon (*Columba squamosa*)—red-necked pigeon, scaled pigeon.

Ducks

Outside Dates: Between December 1, 1990, and January 31, 1991, the Virgin Islands may select a duck hunting season as follows.

Hunting Seasons: Not more than 55 consecutive days may be selected for hunting ducks.

Daily Bag and Possession Limits: Not to exceed 3 daily and 6 in possession, except that the season is closed on the ruddy duck (*Oxyura jamaicensis*); the White-cheeked pintail (*Anas bahamensis*); West Indian whistling (tree) duck (*Dendrocygna arborea*); fulvous whistling (tree) duck (*Dendrocygna bicolor*), and the masked duck (*Oxyura dominica*).

[FR Doc. 90–19069 Filed 8–13–90; 8:45 am]

BILLING CODE 4310–55–M

Reader Aids

Federal Register

Vol. 55, No. 157

Tuesday, August 14, 1990

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	523-5227
Public inspection desk	523-5215
Corrections to published documents	523-5237
Document drafting information	523-5237
Machine readable documents	523-3447

Code of Federal Regulations

Index, finding aids & general information	523-5227
Printing schedules	523-3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523-6641
Additional information	523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the Presidents	523-5230
Weekly Compilation of Presidential Documents	523-5230

The United States Government Manual

General information	523-5230

Other Services

Data base and machine readable specifications	523-3408
Guide to Record Retention Requirements	523-3187
Legal staff	523-4534
Library	523-5240
Privacy Act Compilation	523-3187
Public Laws Update Service (PLUS)	523-6641
TDD for the hearing impaired	523-5229

FEDERAL REGISTER PAGES AND DATES, AUGUST

31175-31350.....1
31351-31570.....2
31571-31808.....3
31809-32070.....6
32071-32230.....7
32231-32374.....8
32375-32592.....9
32593-32894.....10
32895-33094.....13
33095-33274.....14

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
5887 (Revoked by Proc. 6167).....33093
6163.....31567
6164.....32231
6165.....32233
6166.....32373
6167.....33093

Executive Orders:
12362 (Revoked by EO 12721).....31349
12585 (Revoked by EO 12721).....31349
12721.....31349
12722.....31803
12723.....31805
12724 (See EO 12722).....33089
12725 (See EO 12723).....33091

Administrative Orders:
Memorandums:
August 8, 1990.....32591

5 CFR

430.....31689

Proposed Rules:
550.....31190

7 CFR

273.....31571
278.....31809
301.....32235-32240
400.....32593
910.....31813, 32895
919.....31571
931.....31573
945.....31574
989.....32597
1005.....33216
1105.....31351

Proposed Rules:
1.....31191
51.....32096
910.....32422
915.....31604
917.....31605
929.....31606
965.....32423
981.....32637
1079.....32263
1230.....32919

9 CFR

78.....32897
92.....31484
94.....31484
97.....31366
98.....31484
114.....32897
151.....31484

Proposed Rules:
101.....32264
113.....32264
114.....32920
312.....31840
322.....31840
327.....31840
381.....31840

10 CFR

15.....32375

Proposed Rules:
Ch. I.....32639
60.....32639

12 CFR

207.....31367
208.....32828
220.....31367
221.....31367
224.....31367
225.....32828
226.....31815
503.....31370

Proposed Rules:
4.....31840
211.....32424
265.....32424
701.....32264

13 CFR

121.....31575

14 CFR

11.....32856
13.....31175
21.....32856
23.....32856
25.....32856
33.....32856
34.....32856
39.....31816, 31821, 32381, 32598-32604, 33095-33110
43.....32856
45.....32856
61.....31300
67.....31300
71.....32071, 32608-32613
91.....32856
95.....32382
97.....32856
121.....31564

Proposed Rules:
Ch. I.....32096, 33122
39.....31393, 31401, 32442, 32639, 33122-33135
71.....32064, 32097, 32444, 33136
77.....31722, 32999

15 CFR

767.....31176
771.....31756
772.....31822
774.....31756
786.....31577
787.....32387
788.....31176
791.....32899
799.....31822

Proposed Rules:

944.....31788

16 CFR

803.....31371

Proposed Rules:

453.....31689
1014.....31404

17 CFR

3.....32241

Proposed Rules:

270.....32098

18 CFR

2.....33011
270.....32026
271.....31379
284.....33002, 33011

Proposed Rules:

2.....33027
37.....32098
141.....32641
157.....33017, 33027
284.....33017, 33027
375.....33027
380.....33027
385.....32445

19 CFR

Proposed Rules:

10.....32265
18.....32265
125.....32265
171.....32265
172.....32265

20 CFR

416.....32733

21 CFR

74.....31823, 31824
176.....31824
177.....31824
178.....31826
310.....31776
346.....31776
358.....33246, 33258
369.....31776
510.....32390, 32615
520.....32615
522.....32615
529.....31481
558.....31827

Proposed Rules:

103.....31689

22 CFR

514.....32906, 32907

23 CFR

658.....32396

24 CFR

570.....32364
905.....31178

Proposed Rules:

100.....31191
570.....32356

25 CFR

226.....33112

26 CFR

1.....31380

Proposed Rules:

1.....33137

27 CFR

9.....32400

28 CFR

0.....32403
20.....32072
50.....32072

29 CFR

1910.....31984, 32616
2570.....32836
2585.....32836

Proposed Rules:

1630.....31192
1910.....32736

30 CFR

256.....32907
265.....32907
266.....32907
267.....32907
268.....32907
914.....32616
917.....31829, 32618
944.....32908

Proposed Rules:

228.....32448
250.....31405
931.....31842, 31843
935.....32643
936.....31844, 31845
946.....32100
948.....32102

31 CFR

500.....31178
515.....31179, 32075

32 CFR

199.....31179, 32911
287.....31829
556.....32243
806b.....31384
842.....32076
1286.....32913

33 CFR

80.....31830
100.....31577, 32624, 33116–33118
110.....32243
117.....31384
164.....32244
165.....31578, 32077, 32249
175.....32032, 32733
181.....32032, 32733
334.....31689

Proposed Rules:

117.....31846
166.....32267

34 CFR

346.....33068
600.....32180
668.....32180
769.....31689

Proposed Rules:

600.....32186
668.....32186

36 CFR

704.....32566, 32567
1222.....31982
1228.....31982

Proposed Rules:

327.....32644

38 CFR

4.....31579
21.....31180, 31580
36.....31385

Proposed Rules:

3.....31192
6.....33140
8.....33140
21.....31193
36.....31847

39 CFR

233.....32250

40 CFR

52.....31584, 31587, 31590, 31832, 31835, 32268, 32403, 33118
61.....31593, 32077, 32913
180.....31182, 31184
185.....31182
186.....31182
228.....31593
261.....31387, 32733
264.....31387, 32733
265.....31387, 32733
266.....32733
268.....31387
271.....31387, 32624, 32733
302.....31387, 32733
372.....31594
421.....31594
721.....32406

Proposed Rules:

52.....32645
79.....32218
180.....31194
261.....31849
280.....32647
372.....31342

41 CFR

101–25.....33120
101–38.....32636
101–41.....32636

42 CFR

405.....32078
410.....31185
411.....31185
412.....32088
413.....32088

Proposed Rules:

482.....31196
483.....31196
493.....31758

43 CFR

Public Land Orders:

1094 (Revoked in part by P.L.O. 6789).....32420
1127 (Revoked in part by P.L.O. 6789).....32420
4508 (Revoked in part by P.L.O. 6790).....32420
6788.....32419
6789.....32420
6790.....32420
6791.....32914
6792.....32914
6793.....32915
6794.....32915

44 CFR

62.....32627
64.....32629
65.....31836
67.....31835

Proposed Rules:

67.....31855, 32647

45 CFR

12.....32251

46 CFR

31.....32244
32.....32244
71.....32244
73.....32244
91.....32244
92.....32244
107.....32244
108.....32244
189.....32244
190.....32244

Proposed Rules:

16.....31297
550.....31199, 32999
580.....31199, 32999
581.....31199, 32999

47 CFR

22.....33216
73.....31188
76.....32631
90.....31598

Proposed Rules:

Ch. I.....32648
61.....31858
64.....31859
68.....31859, 32270
73.....31202, 31607, 32650, 32922–32925
87.....31859

48 CFR

202.....33218
203.....33218
207.....33218
219.....33218
220.....33218
224.....33218
226.....33218
229.....33218
231.....33218
233.....33218
243.....33218
248.....33218
250.....33218
251.....33218
252.....33218
Appendix Q.....33218
525.....32635
801.....31391
871.....31599

Proposed Rules:

45.....32586, 32587

52.....32586
915.....32874
950.....32874
970.....32874

49 CFR

390.....32916
395.....32916
1152.....31600

Proposed Rules:

552.....32928
571.....32929, 33141
630.....33078
1043.....32650
1084.....32650

50 CFR

17.....32088, 32252, 32255
20.....33264
603.....31601
611.....31187
613.....31187
642.....31188, 32257
646.....32257, 32635, 33143
661.....31391, 32259, 32916
672.....31602, 32260, 32261
675.....31392, 32094, 32421

Proposed Rules:

17.....31610, 31612, 31860, 31864, 32103, 32271, 32276
18.....32651
20.....32348
251.....32277
646.....31406

LIST OF PUBLIC LAWS

Last List August 10, 1990

This is a continuing list of public bills from the current session of Congress which have become Federal law. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 523-6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

H.J. Res. 548/Pub. L. 101-346

Designating the week of August 19 through 25, 1990, as "National Agricultural Research Week". (Aug. 9, 1990; 104 Stat. 397; 1 page) Price: $1.00

S.J. Res. 77/Pub. L. 101-347

Recognizing the National Fallen Firefighters' Memorial at the National Fire Academy in Emmitsburg, Maryland, as the official national memorial to volunteer and career firefighters who die in the line of duty. (Aug. 9, 1990; 104 Stat. 398; 1 page) Price: $1.00

S.J. Res. 256/Pub. L. 101-348

To designate the week of October 7, 1990, through October 13, 1990, as "Mental Illness Awareness Week". (Aug. 9, 1990; 104 Stat. 399; 2 pages) Price: $1.00.

S.J. Res. 316/Pub. L. 101-349

To designate the second Sunday in October of 1990 as "National Children's Day". (Aug. 9, 1990; 104 Stat. 401; 2 pages) Price: $1.00

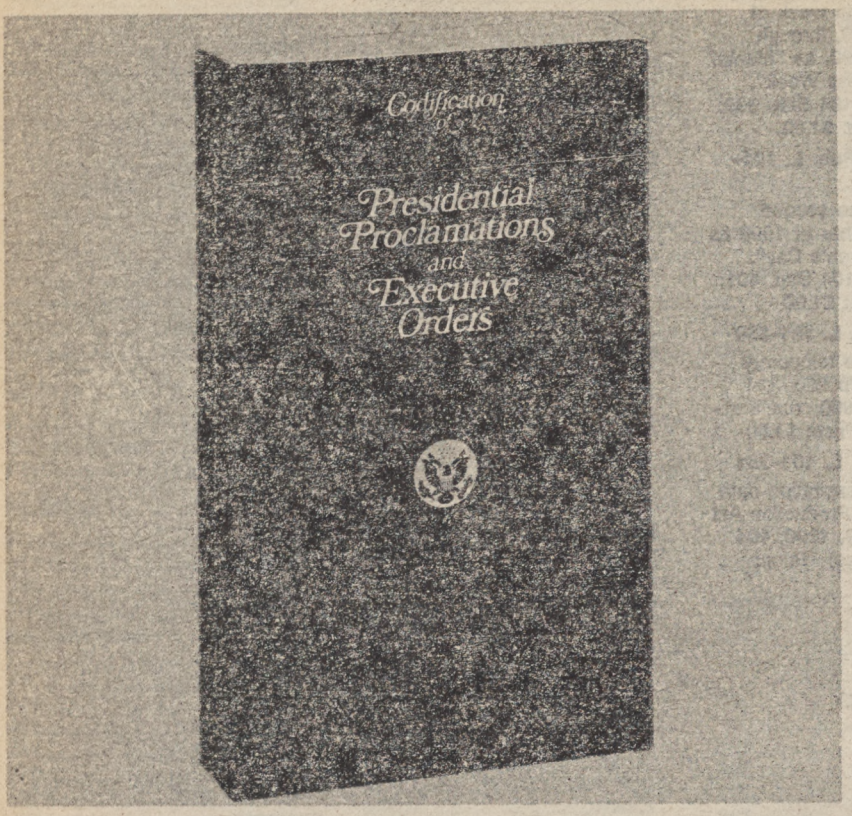
H.R. 5358/Pub. L. 101-350

To provide for a temporary increase in the public debt limit. (Aug. 9, 1990; 104 Stat. 403; 1 page) Price: $1.00

H.R. 5432/Pub. L. 101-351

To extend the expiration date of the Defense Production Act of 1950. (Aug. 9, 1990; 104 Stat. 404; 1 page) Price: $1.00

New edition .... Order now !



For those of you who must keep informed about **Presidential Proclamations and Executive Orders,** there is a convenient reference source that will make researching these documents much easier.

Arranged by subject matter, this edition of the *Codification* contains proclamations and Executive orders that were issued or amended during the period April 13, 1945, through January 20, 1989, and which have a continuing effect on the public. For those documents that have been affected by other proclamations or Executive orders, the codified text presents the amended version. Therefore, a reader can use the *Codification* to determine the latest text of a document without having to "reconstruct" it through extensive research.

Special features include a comprehensive index and a table listing each proclamation and Executive order issued during the 1945–1989 period—along with any amendments—an indication of its current status, and, where applicable, its location in this volume.

Published by the Office of the Federal Register, National Archives and Records Administration

Order from Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402–9325

Order Processing Code:
*6661

Superintendent of Documents **Publications** Order Form

Charge your order. It's easy!

MasterCard VISA

To fax your orders and inquiries—(202) 275-0019

☐ **YES,** please send me the following indicated publication:

_____ copies of the CODIFICATION OF PRESIDENTIAL PROCLAMATIONS AND EXECUTIVE ORDERS, S/N 069-000-00018-5 at $32.00 each.

The total cost of my order is $_____. (International customers please add 25%.) Prices include regular domestic postage and handling and are good through 1/90. After this date, please call Order and Information Desk at 202-783-3238 to verify prices.

_____
(Company or personal name) (Please type or print)

_____
(Additional address/attention line)

_____
(Street address)

_____
(City, State, ZIP Code)

(_____) _____
(Daytime phone including area code)

Please Choose Method of Payment:

☐ Check payable to the Superintendent of Documents

☐ GPO Deposit Account ☐☐☐☐☐☐☐–☐

☐ VISA or MasterCard Account

☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

_____
(Credit card expiration date)

Thank you for your order!

_____
(Signature)

7-89

Mail To: Superintendent of Documents, Government Printing Office, Washington, DC 20402-9325