9-11-90
Vol. 55 No. 176

federal register

Tuesday
September 11, 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)

9-11-90
Vol. 55 No. 176
Pages 37307-37454

federal register

Tuesday
September 11, 1990

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

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

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

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

The **Federal Register** 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.

THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

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

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

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

WASHINGTON, DC

WHEN: September 21, at 9:00 a.m.
WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.
RESERVATIONS: 202–523–5240.

DALLAS, TX

WHEN: September 25, at 9:00 a.m.
WHERE: Federal Office Building, 1100 Commerce Street, Room 7A23–175, Dallas, TX.
RESERVATIONS: 1–800–366–2998.

Contents

Federal Register
Vol. 55, No. 176
Tuesday, September 11, 1990

Agricultural Marketing Service
See Packers and Stockyards Administration

Agriculture Department
See Animal and Plant Health Inspection Service; Packers and Stockyards Administration

Air Force Department
NOTICES
Meetings:
Scientific Advisory Board, 37346 (2 documents)

Animal and Plant Health Inspection Service
RULES
Intrastate transportation of animals and animal products (quarantine):
Brucellosis in cattle and bison—
State and area classifications, 37312
Plant-related quarantine, domestic:
Citrus canker, 37442
Oriental fruit fly, 37311

Coast Guard
RULES
Boating safety:
Personal flotation devices; equipment requirements for recreational boats
Correction, 37403
Dangerous cargoes:
Portable tanks for transportation of bulk hazardous materials by vessel, 37406
NOTICES
Meetings:
Lower Mississippi River Waterway Safety Advisory Committee, 37395, 37396 (2 documents)

Commerce Department
See Foreign-Trade Zones Board; International Trade Administration; National Oceanic and Atmospheric Administration

Commission on Minority Business Development
NOTICES
Meetings, 37343

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
Philippines, 37343
Textile consultation; review of trade:
Korea, 37344

Commodity Futures Trading Commission
NOTICES
Contract market proposals:
Chicago Mercantile Exchange—
Random length lumber, 37344
Meetings:
Regulatory Coordination Advisory Committee, 37346

Defense Department
See Air Force Department; Navy Department

Education Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Minority science improvement program, 37348

Employment and Training Administration
NOTICES
Meetings:
Apprenticeship Federal Committee, 37376

Energy Department
See also Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department
NOTICES
Powerplant and industrial fuel use; new electric powerplant coal capability; compliance certifications:
L&J Energy Systems, Inc., 37350

Environmental Protection Agency
RULES
Water pollution control:
Ocean dumping; site designations—
Gulf of Mexico offshore Port Isabel, TX, 37322
NOTICES
Toxic and hazardous substances control:
Chemical testing—
Data receipt, 37356

Executive Office of the President
See Presidential Documents

Federal Aviation Administration
RULES
Airworthiness directives:
General Electric Co., 37313, 37315 (2 documents)
Pratt & Whitney, 37316
Control zones and transition areas, 37318
Standard instrument approach procedures, 37319
Transition areas, 37318
PROPOSED RULES
Aviation maintenance technician schools; certification, 37416
Transition areas, 37331
NOTICES
Meetings:
Aeronautics Radio Technical Commission, 37396 (3 documents)
Organization, functions, and authority delegations:
Dallas and Fort Worth, TX, 37397
Oklahoma City, OK, 37397

Federal Communications Commission
PROPOSED RULES
Common carrier services:
Satellite communications—
Satellite and terrestrial CD quality broadcasting service; establishment, 37339
Practice and procedure:
Federal benefits; denials, 37438

Federal Energy Regulatory Commission
NOTICES
Meetings; Sunshine Act, 37399
Applications, hearings, determinations, etc.:
Eastern Shore Natural Gas Co., 37348
Great Lakes Gas Transmission Co., 37348
Kentucky West Virginia Gas Co., 37349
Northern Border Pipeline Co., 37349
Northern Natural Gas Co.; correction, 37403
Northwest Pipeline Corp., 37349
Texas Gas Transmission Corp., 37350

Federal Maritime Commission
NOTICES
Agreements filed, etc., 37357

Federal Mine Safety and Health Review Commission
NOTICES
Meetings; Sunshine Act, 37401

Federal Railroad Administration
NOTICES
Emergency orders; passenger service prohibition:
New York & Lake Erie Railroad, 37397

Federal Reserve System
NOTICES
Meetings; Sunshine Act, 37401
Applications, hearings, determinations, etc.:
Barnett Banks, Inc., 37357
Boyle Bancorp, Inc., et al., 37358
Lerner, Alfred, et al., 37358
National Penn Bancshares, Inc., 37359
NCNB Corp., 37359

Federal Trade Commission
RULES
Appliances, consumer; energy costs and consumption information in labeling and advertising:
Conditional exemptions—
Andi Co., 37321
NOTICES
Prohibited trade practices:
TV Inc. et al., 37359

Food and Drug Administration
RULES
Human drugs:
Drug master file submissions
Correction, 37322
Wart remover products (OTC); final monograph
Correction, 37403
NOTICES
Medical devices; premarket approval:
Steridyne Sterile Preserved Saline Solution; correction, 37403

Foreign-Trade Zones Board
NOTICES
Applications, hearings, determinations, etc.:
Illinois—
Maytag Corp.; large home appliance manufacturing plants, 37341

Health and Human Services Department
See also Food and Drug Administration; Health Care Financing Administration; Social Security Administration
PROPOSED RULES
Denial of Federal benefits; conditions for waiver, 37434

Health Care Financing Administration
NOTICES
Agency information collection activities under OMB review, 37360
Privacy Act:
Systems of records, 37360

Hearings and Appeals Office, Energy Department
NOTICES
Cases filed, 37350, 37352
(3 documents)
Decisions and orders, 37353

Interior Department
See Land Management Bureau

International Trade Administration
NOTICES
Antidumping:
Heavy forged hand tools, finished or unfinished, with or without handles, from China, 37341

International Trade Commission
NOTICES
Import investigations:
Ice hockey pants and monofilament polyurethane yarns, 37374
Meetings; Sunshine Act, 37402

Interstate Commerce Commission
PROPOSED RULES
Motor carriers:
Interstate buses; smoking prohibition, 37339
NOTICES
Railroad operation, acquisition, construction, etc.:
Columbus & Greenville Railway Co.; correction, 37403

Justice Assistance Bureau
NOTICES
Grants and cooperative agreements; availability, etc.:
Discretionary programs (1990 FY)—
Denial of Federal benefits demonstration project, 37406

Justice Department
See Justice Assistance Bureau; Justice Programs Office

Justice Programs Office
NOTICES
Denial of Federal benefits program, 37434

Labor Department
See also Employment and Training Administration; Mine Safety and Health Administration; Veterans Employment and Training, Office of Assistant Secretary
NOTICES
Agency information collection activities under OMB review, 37375

Land Management Bureau
NOTICES
Agency information collection activities under OMB review, 37373
Opening of public lands:
Arizona, 37373
Realty actions; sales, leases, etc.:
Utah, 37373

Wyoming; correction, 37403

Mine Safety and Health Administration
PROPOSED RULES
Metal and nonmetal mine safety and health, etc.:
Air quality, chemical substances, and respiratory protection standards
Hearings, 37333

Mine Safety and Health Federal Review Commission
See Federal Mine Safety and Health Review Commission

National Highway Traffic Safety Administration
RULES
Fuel economy standards:
Passenger automobiles—
1992-1994 model years; Rolls-Royce exemption, 37325
Motor vehicle safety standards:
Brake fluids—
Brake fluid and hydraulic system mineral oil containers; labeling, 37328
Nonconforming vehicles—
Importation eligibility determinations, 37330
Registered importers, 37329
Motor vehicle theft prevention standard:
High theft lines; listing, 37326

National Oceanic and Atmospheric Administration
NOTICES
Endangered and threatened species:
Snake River spring, summer, and fall chinook salmon, and Lower Columbia River coho salmon, 37342
Permits:
Marine mammals, 37342, 37343
(2 documents)

National Science Foundation
NOTICES
Grants and cooperative agreements; availability, etc.:
National advanced driving simulator; site selection, 37376

Navy Department
NOTICES
Environmental statements; availability, etc.:
Relocatable-over-the-horizon-radar system; Amchitka Island, AK, 37346
Senior Executive Service:
Performance Review Board; membership, 37347

Neighborhood Reinvestment Corporation
NOTICES
Meetings; Sunshine Act, 37402

Nuclear Regulatory Commission
NOTICES
Meetings; Sunshine Act, 37402
Applications, hearings, determinations, etc.:
Georgia Power Co. et al., 37379

Packers and Stockyards Administration
NOTICES
Central filing system; State certifications:
Oklahoma, 37341

Presidential Documents
ADMINISTRATIVE ORDERS
Narcotics; counternarcotics assistance to Mexico, Colombia, Bolivia, Ecuador, Jamaica, and Belize (Presidential Determination No. 90–0933 of August 19, 1990), 37309
Trading With the Enemy Act; authorities extended (Presidential Determination No. 90–0938 of September 5, 1990), 37307

Public Health Service
See Food and Drug Administration

Resolution Trust Corporation
NOTICES
Accelerated resolution program; policy statement, 37380

Securities and Exchange Commission
NOTICES
Meetings; Sunshine Act, 37402
Self-regulatory organizations; proposed rule changes:
American Stock Exchange, Inc., 37381
Midwest Stock Exchange, Inc., 37389
New York Stock Exchange, Inc., 37390
Self-regulatory organizations; unlisted trading privileges:
Chicago Board Options Exchange, Inc., 37382

Social Security Administration
PROPOSED RULES
Supplemental security income:
Medicaid facilities, individuals in; State supplementary payments, Federal administration, 37332

State Department
NOTICES
Claims against property:
East Germany, 37392
Nicaragua, 37393
Meetings:
International Radio Consultative Committee, 37393
Oceans and International Environmental and Scientific Affairs Advisory Committee, 37393
Shipping Coordinating Committee, 37393, 37394
(3 documents)

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Transportation Department
See also Coast Guard; Federal Aviation Administration; Federal Railroad Administration; National Highway Traffic Safety Administration
NOTICES
Aviation proceedings:
Agreements filed; weekly receipts, 37394
Certificates of public convenience and necessity and foreign air carrier permits; weekly applications, 37394
Hearings, etc.—
U.S.-U.S.S.R. North Atlantic combination service and all-cargo service cases, 37395

Treasury Department
NOTICES
Agency information collection activities under OMB review, 37397

Veterans Employment and Training, Office of Assistant Secretary
NOTICES
Meetings:
Veterans' Employment Committee, 37375, 37376 (2 documents)

Separate Parts In This Issue

Part II
Department of Transportation, Coast Guard, 37406

Part III
Department of Transportation, Federal Aviation Administration, 37416

Part IV
Department of Health and Human Services, Department of Justice, Federal Communication Commission, 37424

Part V
Department of Agriculture, Animal and Plant Health Inspection Service, 37442

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.

3 CFR

Administrative Orders:

Presidential Determinations:

No. 89-25 of August 28, 1989 (See Presidential Determination No. 90-38 of September 5, 1990) 37307

No. 90-33 of August 19, 1990 37309

No. 90-38 of September 5, 1990 37307

7 CFR

301 (2 documents) 37311, 37442

9 CFR

78 37312

14 CFR

39 (3 documents) 37313, 37316

71 (2 documents) 37318

97 37319

Proposed Rules:

71 37331

147 37416

16 CFR

305 37321

20 CFR

Proposed Rules:

416 37332

21 CFR

314 37322

358 37403

30 CFR

Proposed Rules:

56 37333

57 37333

58 37333

70 37333

71 37333

72 37333

75 37333

33 CFR

175 37403

181 37403

40 CFR

228 37322

45 CFR

78 37436

46 CFR

30 37406

64 37406

70 37406

90 37406

98 37406

109 37406

151 37406

153 37406

47 CFR

Proposed Rules:

1 37438

2 37339

25 37339

49 CFR

531 37325

541 37326

571 37328

592 37329

593 37330

Proposed Rules:

1061 37339

Federal Register
Vol. 55, No. 176
Tuesday, September 11, 1990

Presidential Documents

Title 3—

The President

Presidential Determination No. 90–33 of August 19, 1990

Presidential Determination To Authorize the Provision of Vital Anti-Narcotics Assistance to Mexico, Colombia, Bolivia, Ecuador, Jamaica and Belize

Memorandum for the Secretary of State and the Secretary of Defense

Pursuant to the authority vested in me by Section 506(a)(2) of the Foreign Assistance Act of 1961, as amended ("the Act"), 22 U.S.C. 2318(a)(2), I hereby determine that it is in the national interest of the United States to draw down defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training, for the purpose of the provision of counternarcotics assistance to Mexico, Colombia, Bolivia, Ecuador, Jamaica and Belize.

Therefore, I hereby authorize the furnishing of up to $53.3 million of defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training for the purposes and under the authorities of Chapter 8 of Part I of the Act.

You are authorized and directed to report this determination to the Congress immediately and to arrange for its publication in the **Federal Register**.

George Bush

THE WHITE HOUSE,
Washington, August 19, 1990.

[FR Doc. 90–21501
Filed 9–7–90; 4:03 pm]
Billing code 3195–01–M

Presidential Documents

Presidential Determination No. 90–38 of September 5, 1990

Extension of the Exercise of Certain Authorities Under the Trading With the Enemy Act

Memorandum for the Secretary of State and the Secretary of the Treasury

Under section 101(b) of Public Law 95–223 (91 Stat. 1625; 50 U.S.C. App. 5(b) note), and a previous determination made by me on August 28, 1989 (54 FR 37089), the exercise of certain authorities under the Trading with the Enemy Act is scheduled to terminate on September 14, 1990.

I hereby determine that the extension for one year of the exercise of those authorities with respect to the applicable countries is in the national interest of the United States.

Therefore, pursuant to the authority vested in me by section 101(b) of Public Law 95–223, I extend for one year, until September 14, 1991, the exercise of those authorities with respect to countries affected by:

(1) the Foreign Assets Control Regulations, 31 CFR Part 500;

(2) the Transaction Control Regulations, 31 CFR Part 505;

(3) the Cuban Assets Control Regulations, 31 CFR Part 515; and

(4) the Foreign Funds Control Regulations, 31 CFR Part 520.

The Secretary of the Treasury is directed to publish this determination in the **Federal Register.**

George Bush

THE WHITE HOUSE,
Washington, September 5, 1990.

[FR Doc. 90–21413
Filed 9–7–90; 1:47 pm]
Billing code 3195–01–M

Rules and Regulations

Federal Register
Vol. 55, No. 176
Tuesday, September 11, 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 AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 90-176]

Oriental Fruit Fly; Removal of a Portion of Los Angeles County From the List of Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Oriental fruit fly regulations by removing a portion of Los Angeles County, California—in the Elysian Park area—from the list of quarantined areas. This action is necessary to relieve restrictions that are no longer needed to prevent the spread of the Oriental fruit fly into noninfested areas of the United States. The effect of this action is to remove restrictions imposed by the Oriental fruit fly regulations on the interstate movement of regulated articles from this formerly quarantined area.

DATES: Interim rule effective September 6, 1990. Consideration will be given only to comments received on or before November 13, 1990.

ADDRESSES: To help ensure that your written comments are considered, send an original and three copies to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, Room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 90-176. Comments received may be inspected at USDA, Room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Milton C. Holmes, Senior Operations Officer, Domestic and Emergency Operations, Plant Protection and Quarantine, APHIS, USDA, Room 642, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8247.

SUPPLEMENTARY INFORMATION:

Background

The Oriental fruit fly, *Bactrocera dorsalis* (Hendel) (Syn. *Dacus dorsalis*), is a destructive pest of numerous fruits (especially citrus fruits), nuts, vegetables, and berries. The Oriental fruit fly can cause serious economic losses. Heavy infestations can cause complete loss of crops. The short life cycle of this pest permits the rapid development of serious outbreaks.

We established the Oriental fruit fly regulations (7 CFR 301.93 *et seq.*; referred to below as the regulations) and quarantined an area of Los Angeles County, California—in the West Covina area—in a document effective on August 15, 1989, and published in the **Federal Register** on August 21, 1989 (54 FR 34477-34483, Docket No. 89-144). The regulations impose restrictions on the interstate movement of regulated articles from quarantined areas to prevent the spread of the Oriental fruit fly into noninfested areas of the United States. The regulations also designate soil, and a large number of fruits, nuts, vegetables, and berries, as regulated articles.

We have published a series of interim rules amending these regulations by adding or removing certain portions of Los Angeles and Orange Counties, California, from the list of quarantined areas. Amendments affecting California were made effective on September 19, October 16, and October 20, 1989; and on August 3, 1990 (54 FR 39161-39162, Docket No. 89-170; 54 FR 43037-43038, Docket No. 89-186; 54 FR 43575-43576, Docket No. 89-187; 55 FR 32240-32241, Docket No. 90-149; and 55 FR 32238-32240, Docket No. 90-157).

Based on insect trapping surveys conducted by inspectors of California State and county agencies and by inspectors of the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, we have determined that the Oriental fruit fly has been eradicated from the Elysian Park quarantined area in Los Angeles County, California. The last finding of Oriental fruit fly in this area was made on October 9, 1989.

Since then, no evidence of Oriental fruit fly infestations have been found in that area. We have determined that Oriental fruit fly infestations no longer exist in the Elysian Park quarantined area of Los Angeles County, California. Therefore, we are removing this area from the list of areas quarantined because of the Oriental fruit fly.

The only other quarantined area, an additional portion of Los Angeles County that includes Lynwood, South Gate, Downey, Paramont, Compton, Willowbrook, and Watts, remains infested with Oriental fruit fly.

Immediate Action

James W. Glosser, Administrator of the Animal and Plant Health Inspection Service, has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. A portion of Los Angeles County, California, in the Elysian Park area, was quarantined due to the possibility that the Oriental fruit fly could be spread from this area to noninfested areas of the United States. Since this situation no longer exists, and because the quarantined status of this portion of Los Angeles County imposes an unnecessary regulatory burden on the public, we have taken immediate action to remove these restrictions.

Since prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest under these conditions, and because this rule relieves a regulatory restriction, there is good cause under 5 U.S.C. 553 to make it effective upon signature. We will consider comments that are received within 60 days of publication of this interim rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**, including discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an

effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

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

This regulation affects the interstate movement of regulated articles from a portion of Los Angeles County, California, in the Elysian Park area. It appears that there are approximately 234 small entities in this area that may be affected by this rule. These include approximately 25 nurseries, 2 citrus processing plants, 1 farmers market, 1 community garden, 5 wholesale markets, and 200 retail fruit/produce vendors.

These small entities comprise less than 5 percent of the total number of small entities that move these articles interstate from nonquarantined areas in California. In addition, these small entities sell regulated articles primarily for local intrastate, not interstate movement. Also, many of the nurseries sell other items in addition to the regulated articles so that the effect, if any, of the quarantine on these entities was minimal.

The effect on those few entities that do move regulated articles interstate was minimized by the availability of various treatments specified in the regulations that, in most cases, allowed these small entities to move regulated articles interstate with very little additional cost.

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

Paperwork Reduction Act

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

Executive Order 12372

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

List of Subjects in 7 CFR Part 301

Agricultural commodities, Incorporation by reference, Oriental fruit fly, Plant diseases, Plant pests, Plants (agriculture), Quarantine, Transportation.

Accordingly, 7 CFR part 301 is amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation of part 301 continues to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff; 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

§ 301.93–3 [Amended]

2. In § 301.93–3, paragraph (c) is amended by removing the first paragraph under "California" that begins "Los Angeles County—1. That portion of the county in the Elysian Park area * * *", and by removing the "2." in the paragraph that begins "2. That portion of the county—including Lynwood * * *".

Done in Washington, DC, this 6th day of September 1990.

Robert Melland,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90–21260 Filed 9–10–90; 8:45 am]

BILLING CODE 3410-34-M

---

9 CFR Part 78

[Docket No. 90–164]

Brucellosis in Cattle, State and Area Classifications

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: We are amending the brucellosis regulations concerning the interstate movement of cattle by changing the classification of Nevada from Class A to Class Free. We have determined that Nevada now meets the standards for Class Free status. This action relieves certain restrictions on the interstate movement of cattle from Nevada.

DATES: Interim rule effective September 6, 1990. Consideration will be given only to comments received on or before November 13, 1990.

ADDRESSES: To help ensure that your written comments are considered, send an original and three copies of written comments to Regulatory Analysis and Development, PPD, APHIS, USDA, Room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 90–164. Comments received may be inspected at USDA, Room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. John D. Kopec, Senior Staff Veterinarian, Cattle Diseases and Surveillance Staff, VS, APHIS, USDA, Room 729, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–6188.

SUPPLEMENTARY INFORMATION:

Background

Brucellosis is a contagious disease affecting animals and man, caused by bacteria of the genus *Brucella*.

The brucellosis regulations contained in 9 CFR part 78 (referred to below as the regulations) provide a system for classifying States or portions of States according to the rate of brucella infection present, and the general effectiveness of a brucellosis control and eradication program. The classifications are Class Free, Class A, Class B, and Class C. States or areas that do not meet the minimum standards for Class C are required to be placed under Federal quarantine.

The brucellosis Class Free classification is based on a finding of no known brucellosis in cattle for the 12 months preceding classification as Class Free. The Class C classification is for States or areas with the highest rate of brucellosis. Class B and Class A fall between these two extremes. Restrictions on moving cattle interstate become less stringent as a State approaches or achieves Class Free status.

The standards for the different classifications of States or areas entail maintaining (1) a cattle herd infection rate not to exceed a stated level during 12 consecutive months; (2) a rate of infection in the cattle population (based on the percentage of brucellosis reactors found in the Market Cattle Identification (MCI) program—a program of testing at stockyards, farms, ranches, and slaughtering establishments) not to exceed a stated level; (3) a surveillance system that includes testing of dairy herds, participation of all slaughtering establishments in the MCI program, identification and monitoring of herds at high risk of infection—including herds adjacent to infected herds and herds

from which infected animals have been sold or received, and having an individual herd plan in effect within a stated number of days after the herd owner is notified of the finding of brucellosis in a herd he or she owns; and (4) minimum procedural standards for administering the program.

Before the effective date of this interim rule, Nevada was classified as a Class A State because of its herd infection rate and its MCI reactor prevalence rate. However, after reviewing its brucellosis program records, we have concluded that the State of Nevada meets the standards for Class Free status.

To attain and maintain Class Free status, a State or area must (1) remain free from field strain *Brucella abortus* infection for 12 consecutive months or longer, (2) maintain a 12-consecutive-month MCI reactor prevalence rate not to exceed one reactor per 2,000 cattle tested (0.050 percent), and (3) have an approved individual herd plan in effect within 15 days of locating the source herd or recipient herd. Nevada now meets the standards for classification as Class Free.

Therefore, we are removing Nevada from the list of Class A States in § 78.41(b) and adding it to the list of Class Free States in § 78.41(a). This action relieves certain restrictions on moving cattle interstate from Nevada.

Immediate Action

James W. Glosser, Administrator of the Animal and Plant Health Inspection Service, has determined that there is good cause to publish this interim rule without prior opportunity for public comment. Immediate action is warranted to remove unnecessary restrictions on the interstate movement of cattle from Nevada.

Since prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest under these conditions, there is good cause under 5 U.S.C. 553 to make it effective upon signature. We will consider comments that are received within 60 days of publication of this interim rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**, including discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12291 and Regulatory Flexibility Act

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

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

Cattle moved interstate are moved for slaughter, for use as breeding stock, or for feeding. Changing the status of Nevada from Class A to Class Free reduces certain testing and other requirements governing the interstate movement of cattle from Nevada. Testing requirements for cattle moved interstate for immediate slaughter or to quarantined feedlots are not affected by this change. Cattle from certified brucellosis free herds moving interstate are not affected by this change.

The groups affected by this action will be herd owners in Nevada, as well as buyers and importers of Nevada cattle.

This action could affect an estimated 1,700 cattle herds in Nevada, 98 percent of which are owned by small entities. Most of these herds are not certified-free. Test-eligible cattle offered for sale from other than certified-free herds must have a negative test under present Class A status regulations. Last year Nevada tested 16,249 cattle for change-of-ownership. This testing cost approximately $7 per head, or $113,743. If change-of-ownership testing is distributed equally among all herds potentially affected by this regulation, Class Free status could save each herd owner approximately $67 per year.

Therefore, we have determined that changing Nevada's brucellosis status will not significantly affect market patterns, and will not have a significant economic impact on the small entities affected by this interim rule.

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

Paperwork Reduction Act

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

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

List of Subjects in 9 CFR Part 78

Animal diseases, Brucellosis, Cattle, Hogs, Quarantine, Transportation.

Accordingly, we are amending 9 CFR part 78 as follows:

PART 78—BRUCELLOSIS

1. The authority citation for part 78 continues to read as follows:

Authority: 21 U.S.C. 111–114a–l, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

§ 78.41 [Amended]

2. Section 78.41, paragraph (a) is amended by adding "Nevada," immediately after "Montana,".

§ 78.41 [Amended]

3. Section 78.41, paragraph (b) is amended by removing "Nevada,".

Done in Washington, DC, this 6th day of September 1990.

Robert Melland,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90–21262 Filed 9–10–90; 8:45 am]

BILLING CODE 3410–34–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90–ANE–21; Amdt. 39–6715]

Airworthiness Directives; General Electric Company (GE) CF6–50/–45 Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to GE CF6–50/–45 series engines, which requires removal of certain high pressure turbine (HPT) stage one disks. This amendment is prompted by one uncontained HPT stage one disk fracture, and six additional disks found cracked during inspections. This amendment is needed to prevent

uncontained engine failure, emergency takeoff abort, and potentially significant aircraft damage.

EFFECTIVE DATE: October 1, 1990.

ADDRESSES: The applicable service information may be obtained from General Electric Aircraft Engines, CF6 Distribution Clerk, Room 132, 111 Merchant Street, Cincinnati, Ohio 45246. This information may be examined at the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Thomas Boudreau, Engine Certification Branch, ANE-142, Engine Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7096.

SUPPLEMENTARY INFORMATION: There has been one uncontained HPT stage one disk fracture which resulted in a high speed emergency takeoff abort. Uncontained engine fragments damaged the aircraft wing and horizontal stabilizer, and caused separation of both engine core cowls. The takeoff abort braking action resulted in the main landing gear tires being blown.

The fractured disk and six additional disks found cracked during inspections were determined to have low cycle fatigue (LCF) crack origins at the inside fillet radius of the disk forward embossments. Refined stress analyses have revealed substantially higher embossment stresses than were originally predicted. Consequently, certain HPT stage one disks are susceptible to LCF failure prior to reaching their published time limits.

The amendment requires the removal of affected disks. This amendment also provides a removal from service schedule for those affected disks near or exceeding the minimum calculated time to LCF crack initiation.

Since this condition is likely to exist or develop on other engines of the same type design, this AD requires removal of certain HPT stage one disks installed on GE CF6-50/-45 series engines.

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

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 Rules 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 (FAA) 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 (AD):

General Electric Company: Applies to General Electric Company (GE) CF6-50/-45 series turbofan engines installed in, but not limited to, Airbus A300, Boeing 747, and McDonnell Douglas DC-10-15 and DC-10-30 series aircraft. Compliance is required as indicated, unless previously accomplished.

To prevent uncontained engine failure, emergency takeoff abort, and potentially significant aircraft damage, accomplish the following:

(a) Remove from service, high pressure turbine (HPT) stage one disks, Part Numbers (P/N) 9264M57P01, 9264M57P02, 1322M88P04, 1322M88P05, 1322M88P07, 9283M31P02, 9283M55P04, and 9283M55P05, in accordance with the following schedule based upon disk cycles since new (CSN) on the effective date of this AD:

(1) For disks which have been operated in CF6-50 series engines:

(i) Remove within 100 cycles in service (CIS) after the effective date of this AD, disks with greater than or equal to 7,500 CSN.

(ii) Remove at the next engine shop visit, but no later than 1,000 CIS after the effective date of this AD or prior to accumulating 7,600 CSN, whichever occurs first, disks with greater than or equal to 6,000 CSN, but less than 7,500 CSN.

(iii) Remove at the next engine shop visit after accumulating 5,500 CSN, but no later than 1,500 CIS after the effective date of this AD or prior to accumulating 7,000 CSN, whichever occurs first, disks with greater than or equal to 4,000 CSN, but less than 6,000 CSN.

(iv) Remove prior to exceeding 5,500 CSN, disks with less than 4,000 CSN.

(v) Thereafter, remove affected disks from service and replace with a serviceable disk prior to exceeding 5,500 CSN. NOTE: CF6-50 Series Service Bulletin 72-966, dated September 1, 1989, introduces a new HPT stage one disk, P/N 1473M65P02, which has an FAA approved time limit of 15,000 CSN.

(2) For disks which have been exclusively operated in CF6-45 series engines:

(i) Remove within 100 CIS after the effective date of this AD, disks with greater than or equal to 8,000 CSN.

(ii) Remove at the next engine shop visit, but no later than 1,500 CIS after the effective date of this AD or prior to accumulating 8,100 CSN, whichever occurs first, disks with greater than or equal to 6,000 CSN, but less than 8,000 CSN.

(iii) Remove at the next engine shop visit after accumulating 6,000 CSN, but no later than 2,000 CIS after the effective date of this AD or prior to accumulating 7,500 CSN, whichever occurs first, disks with greater than or equal to 4,000 CSN, but less than 6,000 CSN.

(iv) Remove prior to exceeding 6,000 CSN, disks with less than 4,000 CSN.

(v) Thereafter, remove affected disks from service and replace with a serviceable disk prior to exceeding 6,000 CSN.

(b) An engine shop visit for the purpose of this AD is defined as the induction of the engine into a shop for the performance of maintenance.

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

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

All persons affected by this directive who have not already received the appropriate service documents from the

manufacturer may obtain copies upon request to General Electric Aircraft Engines, CF6 Distribution Clerk, Room 132, 111 Merchant Street, Cincinnati, Ohio 45246. These documents may be examined at the Regional Rules Docket, Office of the Assistant Chief Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Room 311, Burlington, Massachusetts 01803.

This amendment becomes effective on October 1, 1990.

Issued in Burlington, Massachusetts, on August 23, 1990.

Jack A. Sain,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 90-21208 Filed 9-10-90; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 90-ANE-09; Amdt. 39-6720]

Airworthiness Directives; General Electric Company (GE) CF6-6 Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to GE CF6-6 series engines, which reduces the low cycle fatigue (LCF) retirement lives for certain low pressure turbine rotor (LPTR) components. The AD also provides a removal schedule for those affected parts with reduced LCF retirement lives. This amendment is prompted by eight LPTR stage two disks found cracked during inspection, and by refined life analyses which have revealed minimum calculated lives significantly lower than published limits. The amendment is needed to prevent LCF failure of certain LPTR components which could result in uncontained engine failure and aircraft damage.

EFFECTIVE DATE: October 15, 1990.

ADDRESSES: The applicable service information may be obtained from General Electric Aircraft Engines, CF6 Distribution Clerk, Room 132, 111 Merchant Street, Cincinnati, Ohio 45246. This information may be examined at the Federal Aviation Administration, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Thomas Boudreau, Engine Certification Branch, ANE-142, Engine Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7096.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD), applicable to GE CF6-6 series turbofan engines, which requires reduction of the LCF retirement lives for certain LPTR components, was published in the **Federal Register** on May 30, 1990 (55 FR 21884).

The proposal was prompted by eight LPTR stage two disks found cracked at the forward flange cooling air slots. A study using updated analyses for the LPTR stage two disk and other LPTR components has revealed minimum calculated lives which are significantly lower than published limits. The AD is needed to prevent LCF failure of certain LPTR components which could result in uncontained engine failure and aircraft damage.

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 comments were received concerning the proposed rule.

Two commenters stated that the proposed removal from service schedule for the LPTR stage one disk was too restrictive. Both commenters requested a 1,000 cycle extension to the uppermost removal threshold.

The FAA concurs with these commenters. The uppermost removal threshold for the LPTR stage one disk was chosen to preclude a disk failure. A statistical analysis of an 1,000 cycle increase to the uppermost removal threshold indicates the level of safety established in the proposal is maintained. Also, by eliminating approximately 30 forced engine removals, the 1,000 cycle increase will significantly reduce the economic impact of the AD. Consequently, this compliance relaxation is included in the AD.

Since issuance of the proposal, the FAA has discovered that the LPTR stage two disk replacement program inadvertently contained no provision to replace affected disks with future FAA approved disks. Therefore, the provision to allow affected disks to be replaced with future FAA approved disks is included in the AD. Also, the regulatory evaluation has been revised based upon additional information received since issuing the proposal.

After 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 412 GE CF6-6 series engines of the affected design in the domestic fleet. It is estimated that ten of these engines will be forced removed at a total cost of $900,000. Also, the total domestic cost impact associated with retiring the affected LPTR components prior to exceeding their current published time limits is estimated to be $14,400,000. Based on these figures, the total cost impact of the AD on the United States economy is estimated to be $15,300,000.

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 Rules 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 (AD):

General Electric Company: Applies to General Electric Company (GE) CF6-6 turbofan engines installed on, but not limited to, McDonnell Douglas DC-10-10 aircraft. Compliance is required as indicated, unless already accomplished.

To prevent low cycle fatigue (LCF) failure of the low pressure turbine rotor (LPTR) stage one disk, LPTR stage two disk, and LPTR forward shaft, which could result in uncontained engine failure, accomplish the following:

(a) Remove from service, LPTR stage one disks, Part Numbers (P/N) 9690M76P02, 9690M76P03, 9690M76P08, and 9079M51P01, in accordance with the following schedule based upon disk cycles since new (CSN) on the effective date of this AD:

(1) Remove within 400 cycles in service (CIS) after the effective date of this AD, disks with greater than or equal to 19,600 CSN.

(2) Remove at the next LPTR overhaul after the effective date of this AD, but no later than 4,500 CIS after the effective date of this AD or prior to accumulating 20,000 CSN, whichever occurs first, disks with greater than or equal to 10,700 CSN, but less than 19,600 CSN.

(3) Remove within 4,500 CIS after the effective date of this AD, disks with greater than or equal to 6,200 CSN, but less than 10,700 CSN.

(4) Remove prior to exceeding 10,700 CSN, disks with less than 6,200 CSN.

(5) Thereafter, remove disks from service and replace with a serviceable disk prior to exceeding 10,700 CSN.

(b) Remove from service, LPTR forward shafts, P/N 9690M90P04, 9690M90P05, 9690M90P07, 9174M87P02, and 9174M87P04, in accordance with the following schedule based upon shaft CSN on the effective date of this AD:

(1) Remove within 400 CIS after the effective date of this AD, shafts with greater than or equal to 19,600 CSN.

(2) Remove at the next LPTR overhaul after the effective date of this AD, but no later than 4,500 CIS after the effective date of this AD or prior to accumulating 20,000 CSN, whichever occurs first, shafts with greater than or equal to 15,000 CSN but less than 19,600 CSN.

(3) Remove within 4,500 CIS after the effective date of this AD, shafts with greater than or equal to 10,500 CSN, but less than 15,000 CSN.

(4) Remove prior to exceeding 15,000 CSN, shafts with less than 10,500 CSN.

(5) Thereafter, remove shafts from service and replace with a serviceable shaft prior to exceeding 15,000 CSN.

(c) Remove LPTR stage two disks, P/N 9690M77P03, 9690M77P04, 9690M77P09, 9690M77P11, 9249M40P01, 9249M40P02, 9249M40P03, 9249M40P04 and 9249M40P05, with LPTR stage two disk, P/N 9690M77P14, or later FAA-approved replacement stage two disk, at the next LPTR overhaul after the effective date of this AD, but no later than 4,500 CIS after the effective date of this AD or prior to exceeding the published LCF retirement life, whichever occurs first.

Notes: (1) For the purpose of this AD, an LPTR overhaul is defined as the induction of the engine into a shop where the subsequent maintenance entails LPTR disassembly.

(2) This action establishes the following new LCF retirement lives which are published in Chapter 5 of the CF6-6 Maintenance and Shop manuals:

(a) 10,700 cylces for LPTR stage one disks, P/N 9690M76P02, 9690M76P03, 9690M76P08 and 9079M51P01.

(b) 15,000 cycles for LPTR forward shafts, P/N 9690M90P04, 9690M90P05, 9690M90P07, 9174M87P02 and 9174M87P04.

(3) CF-6 Series Service Bulletin (SB) 72-944 introduces a new LPTR stage one disk, P/N 9079M51P03, which has an FAA approved LCF retirement life of 20,000 CSN.

(4) CF6-6 Series SB 72-945 introduces an FAA approved rework procedure for the affected LPTR forward shafts to increase the FAA approved LCF retirement life to 20,000 CSN.

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

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to General Electric Aircraft Engines, CF6 Distribution Clerk, Room 132, 111 Merchant Street, Cincinnati, Ohio 45246. These documents may be examined at the Regional Rules Docket, Office of the Assistant Chief Counsel, New England Region, 12 New England Executive Park, Room 311, Burlington, Massachusetts 01803.

This amendment becomes effective October 15, 1990.

Issued in Burlington, Massachusetts, on August 28, 1990.

Jack A. Sain,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 90-21209 Filed 9-10-90; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 90-ANE-17; Amdt. 39-6682]

Airworthiness Directives; Pratt & Whitney PW4050, PW4052, PW4056, PW4060, and PW4060A Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to PW4000 series engines installed on Boeing 747-400 and 767-200/-300 aircraft, which requires modification of the aircraft engine idle system wiring to preclude the availability of minimum idle inflight. The AD also requires deactivation of the high pressure compressor (HPC) secondary flow control valves by the removal of two tube assemblies, in order to assure positive HPC secondary airflow in all operating conditions. This AD is prompted by seven engine failures during pre-delivery testing and is required to prevent HPC damage and surge caused by excessive blade/airseal interference. This condition, if not corrected, could result in HPC failure and possible total loss of aircraft engine thrust.

DATES: Effective October 1, 1990.

The incorporation by reference of certain publications listed in the regulation is approved by the Director of the Federal Register as of August 13, 1990.

ADDRESSES: The applicable service information may be obtained from Pratt & Whitney, Publication Department, P.O. Box 611, Middletown, Connecticut 06457, regarding the HPC secondary control valve deactivation procedures, and from Boeing Commercial Airplanes, Post Office Box 3707, Seattle, Washington 98124-2207, regarding the modification of the engine idle system wiring, or both may be inspected at the Regional Rules Docket, Room 311, Office of the Assistance Chief Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Chris Gavriel, Engine Certification Branch, ANE-141, Engine Certificate Office, Engine & Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7084.

SUPPLEMENTARY INFORMATION: This action is prompted by five engine

failures while undergoing production acceptance testing at Pratt & Whitney test facilities, and by two additional inflight engine failures experienced during a specialized flight test program intended to corroborate the production acceptance test failures. All failed engines exhibit excessive HPC blade tip to shroud interference, resulting in a substantial loss of outer shroud material in the 9th through 15th stages of the HPC. An investigation has identified that HPC blade tip to shroud clearances are insufficient to ensure proper engine operation during a rapid acceleration to takeoff power which is preceded by several minutes of operation at takeoff power and minimum idle rotor speed, sequentially. At minimum idle rotor speed, compressor internal cooling flow is insufficient to provide compressor rotor thermal contraction and resultant blade/airseal clearances necessary during a subsequent rapid acceleration to takeoff power. For this reason, higher inflight engine idle rotor speeds are needed to assure proper HPC bore cooling airflow.

Additionally, deactivation of the HPC secondary flow control valves is necessary to provide full-time cooling flow and preclude dispatch with either valve in the closed position. No revenue service engine failures have been reported to date, but the flight test failures confirm that certain inflight operating profiles can occur which produce excessive blade tip to shroud interference. This condition, if not corrected, can result in HPC failure and possible total loss of aircraft engine thrust.

The FAA has reviewed and approved Pratt & Whitney Alert Service Bulletin (ASB) A75-62 which describes the procedure to remove two pneumatic tube assemblies and thus assure that the HPC secondary flow control valves will remain fixed in the open position. The FAA has also reviewed and approved Boeing Commercial Airplanes ASB's 747-73A2055 and 767-73A0033, which describe the procedure to modify the engine idle system wiring and thus limit the engine idle to approach idle inflight, without affecting the availability of minimum idle operation on the ground.

Since this situation is likely to exist or develop on other engines of the same type design, this AD requires modification of the engine idle system wiring to limit the engine idle to approach idle inflight, and deactivation of the HPC secondary flow control valves in the open position by removing two pneumatic tube assemblies, in accordance with the ASB's previously described.

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

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 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 had been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (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, and Incorporation by reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration (FAA) amends 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:

Pratt & Whitney: Applies to Pratt & Whitney (P&W) PW4050, PW4052, PW4056, PW4060, and PW4060A turbofan engines installed on Boeing 747-400 and 767-200/-300 aircraft.

Compliance is required within 30 calendar days after the effective date of this airworthiness directive (AD), unless already accomplished.

To prevent a high pressure compressor failure that can cause an inflight shutdown, accomplish the following:

(a) Remove tube assemblies Part Number (P/N) 52T637-01 and P/N 52T544-01 and install four cap connections P/N MS9315-06, in accordance with the requirements of P&W Alert Service Bulletin (ASB) A75-62, dated June 26, 1990.

Note: Modification of the W1 and W2 Electronic Engine Control (EEC) harness, as referenced in paragraph 2.(A). of the Accomplishment Instructions in the above noted ASB, may be advantageous to avoid EEC nuisance messages occurring in service subsequent to the removal of the tube assemblies prescribed above.

(b) Incorporate the requirements of Boeing Commercial Airplanes ASB 747-73A2055, dated June 8, 1990, on PW4000 powered Boeing 747-400 aircraft, so that the minimum rotational speed of the low pressure rotor inflight is limited to Approach Idle rpm.

(c) Incorporate the requirements of Boeing Commercial Airplanes ASB 767-73A0033, dated June 5, 1990, on PW4000 powered Boeing 767-200/-300 aircraft, so that the minimum low pressure rotor rpm inflight is limited to Approach Idle rpm.

(d) Upon submission of substantiating data by an owner or operator through an FAA Airworthiness Inspector, an alternate method of compliance with the requirements of this AD or adjustments to the compliance times in this AD may be approved by the Manager, Engine Certification Office, Engine & Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803, or the Manager, Propulsion Branch, Seattle Aircraft Certification Office, Transport Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, Washington 98055.

(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.

The modification of the engine idle system and the removal of the two tube assemblies shall be done in accordance with the following Boeing and Pratt & Whitney documents:

Document No.	Page No.	Issue/Rev	Date
Boeing ASB 747-73A-2055.	All	Original	June 8, 1990.

Document No.	Page No.	Issue/Rev	Date
Boeing ASB 767-73A-0033.	All	Original	June 5, 1990.
Pratt & Whitney ASB A75-62.	All	Original	June 26, 1990.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from Boeing Commercial Airplanes, Post Office Box 3707, Seattle, Washington 98124-2207, regarding the modification of the engine idle system wiring system, and from Pratt & Whitney, Publication Department, P.O. Box 611, Middletown, Connecticut 06457, regarding the HPC secondary flow control valve deactivation procedures. Copies may be inspected at the Regional Rules Docket, Office of the Assistant Chief Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, or at the Office of the Federal Register, 1100 L Street, NW., Room 8301, Washington, DC 20591.

Issued in Burlington, Massachusetts, on August 28, 1990.

Jack A. Sain,

Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 90-21207 Filed 9-10-90; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket Number 90-ACE-02]

Designation of Transition Area; Osceola, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to designate a 700-foot transition area at Osceola, Iowa, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Osceola, Iowa, Municipal Airport, utilizing the Des Moines VORTAC as a navigational aid.

EFFECTIVE DATE: 0901U.t.c., February 7, 1991.

FOR FURTHER INFORMATION CONTACT: Lewis G. Earp, Airspace Specialist, System Management Branch, Air Traffic Division, ACE-530, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 426-3408.

SUPPLEMENTARY INFORMATION:

History

On May 24, 1990, the FAA published a Notice of Proposed Rulemaking which would amend Section 71.181 of part 71 of the Federal Aviation Regulations so as to designate a transition area at Osceola, Iowa (55 FR 21389).

Interested persons were invited to participate in this rulemaking preceding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking. Except for editorial changes, this amendment is the same as that proposed in the Notice. Section 71.181 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6F, dated January 2, 1990.

The Rule

This amendment to part 71 of the Federal Aviation Regulations designates a 700-foot transition area at Osceola, Iowa. To enhance airport usage, a new instrument approach procedure is being developed for the Osceola Municipal Airport, Osceola, Iowa, utilizing the Des Moines VORTAC as a navigational aid. This navigational aid will offer new navigational guidance for aircraft utilizing the airport. The establishment of a new instrument approach procedure based on this navigational aid entails designation of a transition area at Osceola, Iowa, at and above 700 feet above ground level within which aircraft are provided air traffic control service. Transition areas are designed to contain IFR operations in controlled airspace during portions of the terminal operation and while transiting between the terminal and en route environment. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under instrument flight rules (IFR) from other aircraft operating under visual flight rules (VFR). This action will change the airport status from VFR to IFR.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this 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) 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.

Adoption of the Amendment

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

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

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

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

2. Section 71.181 is amended as follows:

Osceola Municipal Airport, Iowa [New]

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Osceola Municipal Airport (lat. 41°03'08" N., long. 93°41'22" W), and within 4.5 miles each side of the 006° bearing from the airport extending from the 5-mile radius to 11.5 miles north of the airport, excluding the portion that coincides with the Des Moines, Iowa, transition area.

Issued in Kansas City, Missouri, on August 23, 1990.

Don A. Peterson,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 90-21211 Filed 9-10-90; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 90-ASO-9]

Revision of Control Zone and Transition Area; Tupelo, MS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises the Tupelo, MS, control zone and transition area by eliminating an arrival area extension to the southwest which is no longer required for airspace protection of instrument flight rules (IFR) aircraft. It also eliminates the 700-foot transition area around the Industrial Air Park Airport since it is no longer served by an instrument approach procedure.

Additionally, the airport name is corrected from C. D. Lemons Municipal Airport to Tupelo Municipal Airport-C. D. Lemons Field and a minor correction is made to the latitude/longitude coordinate position of the airport.

EFFECTIVE DATE: 0901 U.t.c., October 18, 1990.

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:

History

On July 17, 1990, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Tupelo, MS, control zone and transition area (55 FR 29035). The proposed action would eliminate the arrival area extension southwest of the airport which is no longer necessary for airspace protection of IFR aircraft. Additionally, it would eliminate the 700-foot transition area surrounding the Industrial Air Park Airport since it is no longer served by an instrument approach procedure and the additional controlled airspace protection is not required. Also, it proposed to correct the name of Tupelo Airport to Tupelo Municipal Airport-C. D. Lemons Field and to make a minor correction in the latitude/longitude coordinate position of the airport. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Section 71.171 and § 71.181 of part 71 of the Federal Aviation Regulations was republished in FAA Handbook 7400.6F dated January 2, 1990.

The Rule

The amendment to Part 71 of the Federal Aviation Regulations revises the Tupelo, MS, control zone and transition area by eliminating the arrival area extension southwest of the Tupelo Municipal Airport and the 700-foot transition area surrounding the Industrial Air Park Airport. Additionally, the airport name is corrected to Tupelo Municipal Airport-C. D. Lemons Field and a minor correction is made to the latitude/longitude coordinate position of the airport.

The Rule

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.

Adoption of the Amendment

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

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

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

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

Adoption of the Amendment

§ 71.171 [Amended]

2. Section 71.171 is amended as follows:

Tupelo, MS [Revised]

Within a five-mile radius of Tupelo Municipal Airport-C. D. Lemons Field (Latitude 34°16′00″ N, Longitude 88°46′11″ W). This control zone is effective during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

13. Section 71.181 is amended as follows:

Tupelo, MS [Revised]

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Tupelo Municipal Airport-C. D. Lemons Field (Latitude 34°16′00″ N, Longitude 88°46′11″ W).

Issued in East Point, Georgia, on August 24, 1990.

Don Cass,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 90–21210 Filed 9–10–90; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 97

[Docket No. 26323; Amdt. No. 1434]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

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

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

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

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

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

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

The FAA 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. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Approaches, Standard Instrument, Incorporation by reference. Issued in Washington, DC on August 31, 1990.

Daniel C. Beaudette,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

PART 97—[AMENDED]

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

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

2. Part 97 is amended as follows:

§ 97.23 [Amended]

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

** * * Effective October 18, 1990*

Daytona Beach, FL—Daytona Beach Regional, VOR RWY 16, Amdt. 17
Daytona Beach, FL—Daytona Beach Regional, LOC BC RWY 25R, Amdt. 14
Daytona Beach, FL—Daytona Beach Regional, NDB RWY 7L, Amdt. 23
Daytona Beach, FL—Daytona Beach Regional, ILS RWY 7L, Amdt. 27
Kissimmee, FL—Kissimmee Muni, VOR/DME-A, Amdt. 7
Kissimmee, FL—Kissimmee Muni, NDB RWY 15, Amdt. 9
Kissimmee, FL—Kissimmee Muni, RNAV RWY 15, Amdt. 5
Atlanta, GA—Fulton County Airport—Brown Field, RADAR-1, Amdt. 18
Cartersville, GA—Cartersville, VOR/DME-A, Orig.
Marietta, GA—Cobb County—MC Collum Field, LOC RWY 27, Amdt. 2
Glasgow, KY—Glasgow Muni, VOR/DME RWY 7, Amdt. 3
Glasgow, KY—Glasgow Muni, SDF RWY 7, Amdt. 6
Glasgow, KY—Glasgow Muni, NDB RWY 7, Amdt. 7
Baltimore, MD—Baltimore-Washington Intl, VOR/DME-A, Orig.
Baltimore, MD—Baltimore-Washington Intl, VOR/DME RWY 15L, Orig.
Salisbury, NC—Rowan County, VOR-A, Amdt. 7
Salisbury, NC—Rowan County, VOR RWY 2, Amdt. 5
Salisbury, NC—Rowan County, VOR RWY 20, Amdt. 1
Salisbury, NC—Rowan County, NDB-B, Amdt. 10
Minot, ND—Minot Intl, VOR RWY 8, Amdt. 10
Minot, ND—Minot Intl, VOR RWY 13, Amdt. 10
Minot, ND—Minot Intl, VOR RWY 26, Amdt. 11
Minot, ND—Minot Intl, VOR RWY 31, Amdt. 10
Lancaster, PA—Lancaster, VOR RWY 8, Amdt. 18
Lancaster, PA—Lancaster, VOR/DME or TACAN RWY 8, Amdt. 2
Lancaster, PA—Lancaster, ILS RWY 8, Amdt. 13
Philadelphia, PA—Philadelphia Intl, ILS RWY 9L, Orig.
Philadelphia, PA—Philadelphia Intl, ILS RWY 9R, Amdt. 7
Philadelphia, PA—Philadelphia Intl, CONVERGING ILS RWY 9R, Amdt. 1
Pittsburgh, PA—Greater Pittsburgh Intl, ILS RWY 10L, Amdt. 22
Pittsburgh, PA—Greater Pittsburgh Intl, ILS RWY 28L, Amdt. 3
Pittsburgh, PA—Greater Pittsburgh Intl, ILS 1 RWY 28L, Amdt. 4
Walterboro, SC—Walterboro Muni, NDB RWY 23, Amdt. 9
Amery, WI—Amery Muni, NDB RWY 13, Amdt. 4
Baraboo, WI—Baraboo Wisconsin Dells, VOR-A, Amdt. 11
Boscobel, WI—Boscobel, VOR/DME-A, Amdt. 3
La Crosse, WI—La Crosse Muni, VOR RWY 13, Amdt. 27

La Crosse, WI—La Crosse Muni, VOR RWY 36, Amdt. 28
La Crosse, WI—La Crosse Muni, NDB RWY 18, Amdt. 15
La Crosse, WI—La Crosse Muni, ILS RWY 18, Amdt. 16
Lone Rock, WI—Tri-County Regional, VOR-A, Amdt. 6
Lone Rock, WI—Tri-County Regional, RNAV RWY 27, Amdt. 6
Madison, WI—Morey, RNAV RWY 12, Amdt. 3
Minot, ND—Minot Intl, LOC BC RWY 13, Amdt. 6
Minot, ND—Minot Intl, ILS RWY 31, Amdt. 8
Platteville, WI—Grant County, RNAV RWY 25, Amdt. 5
Portage, WI—Portage Muni, VOR/DME-A, Amdt. 5
Portage, WI—Portage Muni, RNAV RWY 17, Amdt. 3
Reedsburg, WI—Reedsburg Muni, VOR-A, Amdt. 4
Richland Center, WI—Richland, VOR-A, Amdt. 4

** * * Effective September 20, 1990*

Sanford, ME—Sanford Muni, LOC Runway 7, Orig., CANCELLED
Sanford, ME—Sanford Muni, ILS Runway 7, Orig.

** * * Effective August 29, 1990*

Houston, TX—William P. Hobby, ILS RWY 30L, Amdt. 2

** * * Effective August 28, 1990*

Nashua, NH—Boire Field, ILS RWY 14, Amdt. 4
Providence, RI—Theodore Francis Green State, ILS/DME RWY 34, Amdt. 6

** * * Effective August 24, 1990*

Oxnard, CA—Oxnard, ILS RWY 25, Amdt. 7

** * * Effective August 23, 1990*

Canton, GA—Cherokee County Airport, NDB RWY 4, Amdt. 1
Dalton, GA—Dalton Muni, LOC RWY 14, Amdt. 5
Lawrence, KS—Lawrence Muni, RNAV RWY 33, Amdt. 3
Knoxville, TN—McGhee-Tyson, ILS RWY 23R, Amdt. 10

** * * Effective August 22, 1990*

Philadelphia, PA—Philadelphia Intl, ILS RWY 17, Amdt. 3
Philadelphia, PA—Philadelphia Intl, CONVERGING ILS RWY 17, Amdt. 1

§ 97.27 [Amended]

Note at end of § 97.27:

The FAA published an Amendment in Docket No. 26310, Amdt. No. 1433 to part 97 of the Federal Aviation Regulations (VOL 55 FR No. 168 Page 35300; dated August 29, 1990) under § 97.27 effective October 18, 1990, which is hereby amended as follows:

Freemont, NE—Freemont Muni, NDB RWY 13, Amdt. 5, Change Cancelled to Proposed Cancelled EFF August 23, 1990.

[FR Doc. 90-21212 Filed 9-10-90; 8:45 am]
BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 305

RIN 3084-AA26

Rules for Using Energy Cost and Consumption Information Used in Labeling and Advertising of Consumer Appliances

AGENCY: Federal Trade Commission.

ACTION: Grant of conditional exemption from the Commission's appliance labeling rule.

SUMMARY: The Federal Trade Commission grants a conditional exemption from the labeling requirements of its Appliance Labeling Rule to Andi Co., a manufacturer of cold-water-heating dishwashers. The exemption is conditioned upon Andi Co.'s use of an alternate label.

EFFECTIVE DATE: September 11, 1990.

FOR FURTHER INFORMATION CONTACT: James Mills, Attorney, 202-326-3035, Division of Enforcement, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

Background

The Commission's Appliance Labeling Rule [1] requires that manufacturers label dishwashers (among other products) to show the products' estimated annual cost of operation. The manufacturers must determine operating costs by testing the dishwashers in accordance with the Department of Energy's ("DOE") test procedure for these products. The DOE test is written to measure energy use on the premise that most dishwashers will use water heated outside the machine by either a gas or electric water heater. Consequently, the label required by the Commission's Rule is designed to show two operating costs—one based on heating the water with an electric water heater, and one based on heating the water with a gas water heater.

Andi Co., a domestic company that imports dishwashers, markets two dishwashers that use cold water and heat it internally, without relying on hot water from a water heater. Since no external water heater is used, a dual disclosure of operating costs is unnecessary and inappropriate for these cold-water-heating products.[2]

Section 324 of the Energy Policy and Conservation Act ("EPCA"), which directs the Commission to promulgate the Appliance Labeling Rule, requires that all products covered by a DOE test procedure be labeled in accordance with the Commission's Rule.[3] Although the DOE test for dishwashers assumes that most models to be tested will use externally heated water, the test does have a separate provision that allows for measuring the energy use of water-heating dishwashers that use cold water. Thus, Andi Co.'s dishwasher is covered by the DOE test, so its energy usage can be determined and the product must be labeled in accordance with the Commission's Rule.

Since the currently required label for dishwashers is inappropriate for Andi Co.'s cold-water-heating models, the company asked that the Commission approve an alternate label so it can comply with the Rule. Andi Co. submitted a sample of the label it would like to use. The sample label is the type of straight electrical-energy-used disclosure required on labels for water heaters, refrigerators, refrigerator-freezers and freezers.

Conditional Exemption

The Commission grants Andi Co. a conditional exemption from the requirement that it use the current label for dishwashers. Andi Co. remains under the obligation to comply with all other requirements of the Appliance Labeling Rule. The exemption is granted on the condition that Andi Co. label its products with a label that follows the current dishwasher label format, except all disclosures of and references to the cost of operation using water heated externally by natural or propane gas should be deleted. The electrical cost information should be expanded to occupy the full label, as it does on labels for water heaters, refrigerators, refrigerator-freezers and freezers. In addition, Andi Co. must make the minor modifications discussed below.

The modifications inform consumers that the dishwasher is a cold-water-heating model and that the range

---

[1] 16 CFR part 305 (1990).

[2] During the Appliance Labeling Rule rulemaking proceeding, the existence of cold-water-heating dishwashers was not known to the Commission's staff or raised by the commenters. When the Commission's Rule was written, therefore, the dishwasher label was not designed with them in mind. Based on Commission staff's conversation with Andi Co. and others familiar with the industry, the Commission believes that the only cold-water-heating dishwashers being sold in the United States are those imported by Andi Co.

[3] Public Law 94-163, 42 U.S.C. 6294.

includes both cold-water-heating and conventional models. Specifically, the modifications are:

(1) After the word: "Dishwasher" in the upper left-hand corner of the label, to add the text: (Cold-Water-Heating Type): and,

(2) At the end of the text under the left side of the "EnergyGuide" logo, to add a comma and the text: and include both cold-water-heating models and models using externally heated water.

All specifications for the label should be identical to the specifications required by the Appliance Labeling Rule. The type specifications for the two new units of text discussed above should be the same as the type specifications for the text that immediately precedes them.

The current ranges for dishwashers using externally heated water from an electric water heater should be the ranges that appear on the label.[4] The amount of electrical energy used by cold-water-heating dishwashers is within the range of energy used by conventional dishwashers using electrically heated water. The ranges for those conventional products are appropriate, therefore, for informing consumers as to how the cold-water-heating dishwasher compares to other similar products, including those that use water heated externally by an electric water heater.

Although the Commission is not aware of any other cold-water-heating dishwashers on the market today, besides those of Andi Co., the Commission believes that these modifications are appropriate for use with all cold-water-heating dishwashers, and not just those marketed by Andi Co. Labels designed from these guidelines should be submitted to James Mills, Attorney, Division of Enforcement, Federal Trade Commission, Washington, DC 20580 for clearance before use.

The Commission is granting this exemption under authority in section 1.25 of the Commission's Rules of Practice (16 CFR 1.25). Rule 1.26 of the Commission's Rules of Practice (16 CFR 1.26) allows the Commission to conduct rulemaking proceedings, including the granting of exemptions, without a notice and comment period provided the Commission for good cause finds that such a procedure is not necessary to protect the public interest, which the Commission so finds in this case.[5] The Commission believes the decision will not adversely affect the public interest or result in any consumer injury. To the contrary, consumers will be given accurate information they need to compare these products with others in the marketplace. The conditional exemption will require that the label include certain information to clarify the type of product that is involved and omit possible confusing or misleading information that is irrelevant.

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

Authority: Section 324 of the Energy Policy and Conservation Act (Pub. L. 94–163) (1975), as amended by the National Energy Conservation Policy Act, (Pub. L. 95–619) (1978), the National Appliance Energy Conservation Act, (Pub. L. 100–12) (1987), and the National Appliance Energy Conservation Amendments of 1988, (Pub. L. 100–357) (1988), 42 U.S.C. 6294; sec. 553 of the Administrative Procedure Act, 5 U.S.C. 553.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 90–21269 Filed 9–10–90; 8:45 am]

BILLING CODE 6750-01-M

[4] The dishwasher ranges that are currently in effect were published by the Commission on August 9, 1989, at 54 FR 32831. Labels should be updated in accordance with revisions as they are published by the Commission in the Federal Register.

[5] The Commission granted similar requests for labeling variances from the requirements of the Commission's Octane Rule to Gilbarco, Inc., in August 1988 (53 FR 29277), and to the Sun Oil Company in January 1990 (55 FR 1871), without notice and comment procedures.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 314

[Docket No. 89N-0118]

Technical Revision in the Regulations Governing Drug Master File Submissions; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a final rule published in the Federal Register of July 11, 1990 (55 FR 28378), that made minor revisions to the rules governing the submission to FDA of drug master files (DMF's) in support of investigational and marketing applications for human drugs. FDA is correcting an error that was made in the authority citation for 21 CFR part 314.

FOR FURTHER INFORMATION CONTACT: Robin F. Thomas, Office of Regulatory Affairs (HFC–222), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2994.

In FR Doc. 90–16118, appearing at page 28378 of the Federal Register of Wednesday, July 11, 1990, the following correction is made: On page 28380, in the first column, under amendment "1" in the Authority, in the second line, following "506," add "507,".

Dated: August 31, 1990.

Alan L. Hoeting,

Acting Associate Commissioner of Regulatory Affairs.

[FR Doc. 90–21220 Filed 9–10–90; 8:45 am]

BILLING CODE 4160-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[FRL-3828-6]

Ocean Dumping; Designation of a Site Located Offshore of Port Isabel, TX

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA today designates a dredged material disposal site located in the Gulf of Mexico offshore of Port Isabel, Texas for the continued disposal of material dredged from the Brazos Island Harbor Entrance Channel. This action is necessary to provide an acceptable ocean dumping site for the current and future disposal of this material. This final site designation is for an indefinite period of time. The site is subject to monitoring to insure that unacceptable adverse environmental impacts do not occur.

DATES: This designation shall become effective October 11, 1990.

ADDRESSES: Norm Thomas, Chief, Federal Activities Branch (6E–F), U.S. EPA, 1445 Ross Avenue, Dallas, Texas 75202–2733. The file supporting this designation and the letters of comment are available for public inspection at the following locations: EPA, Region 6, 1445 Ross Avenue, 9th Floor, Dallas,Texas 75202, Corps of Engineers, Galveston District, 444 Barracuda Avenue, Galveston, Texas 77550.

FOR FURTHER INFORMATION CONTACT: Norm Thomas 214–655–2260 or FTS–255–2260.

SUPPLEMENTARY INFORMATION:

A. Background

Section 102(c) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 33 U.S.C. 1401

et seq. ("the Act"), gives the Administrator of EPA the authority to designate sites where ocean dumping may be permitted. On December 23, 1986, the Administrator delegated the authority to designate ocean dumping sites to the Regional Administrator of the Region in which the site is located. This site designation is being made pursuant to that authority.

The EPA Ocean Dumping Regulations (40 CFR chapter I, subchaper H, § 228.4) state that ocean dumping sites will be designated by publication in part 228. A list of "Approved Interim and Final Ocean Dumping Sites" was published on January 11, 1977 (42 FR 2461 *et seq.*). That list established the Brazos Island Harbor site as an interim site for the disposal of material dredged from the entrance channel. In January 1980, the interim status of the site was extended indefinitely.

B. EIS Development

Section 102(2)(c) of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* ("NEPA") requires that Federal agencies prepare Environmental Impact Statements (EIS) on proposals for major Federal actions significantly affecting the quality of the human environment. While NEPA does not apply to EPA activities of this type, EPA has voluntarily committed to prepare EIS in connection with ocean dumping site designations such as this (39 FR 16186, May 7, 1974).

EPA has prepared a Final Environmental Impact Statement entitled "Environmental Impact Statement (EIS) for the Brazos Island Harbor Dredged Material Disposal Site Designation." On July 13, 1990, a notice of availability of the Final EIS for public review and comment was published in the **Federal Register**. The public comment period on this Final EIS closed on August 13, 1990. No comment letters were received.

In accordance with the requirements of section 7 of the Endangered Species Act, EPA has prepared a biological assessment concerning the impact of site designation on endangered and threatened species that may be present in the project area. EPA has determined that no adverse effect will result and has provided its determination and assessment to the National Marine Fisheries Service (NMFS). By letter dated August 17, 1990, NMFS concurred with EPA's determination of no adverse effect.

The action discussed in the EIS is designation for continuing use of an ocean disposal site for dredged material. The purpose of the designation is to provide an environmentally acceptable location for ocean disposal. The appropriateness of ocean disposal is determined on a case-by-case basis.

The EIS discussed the need for the action and examined ocean disposal sites and alternatives to the proposed action. Land based disposal alternatives were examined in a previously published EIS prepared by the Corps of Engineers (COE) and the analysis was updated in this Final EIS. The nearest available land disposal area is 82 acres in size and is located 3 miles away from the seaward end of the project. Because of the high costs of transport as well as the limited capacity of the area, this alternative is not feasible. Also since the surrounding land areas are wetlands or shallow bay habitats, development and use of a suitably sized replacement area would result in a significant loss of quality wetlands or bay bottoms. A land-based alternative would offer no environmental benefit to ocean disposal.

Four ocean disposal alternatives—two nearshore sites (including the proposed site), a mid-shelf site and a deepwater site—were evaluated. Both the mid-shelf and deepwater sites were eliminated due to limited feasibility for monitoring, increased transportation costs and increased safety risks. In addition, the material to be dredged is of a different sediment type than that found further offshore, which could impact the biological community composition at these areas.

Portions of the interim-designated site are within two biologically sensitive area buffer zones. One of these buffer zones is associated with a fish haven and the other buffer zone with the migratory route for estuarine dependent species. Therefore, the interim-designated site is not being designated in its entirety. The new disposal site includes much of the area of historical impact of the interim site but excludes the two buffer zones referenced above.

This final rulemaking notice fills the same role as the Record of Decision required under regulations promulgated by the Council on Environmental Quality for agencies subject to NEPA.

C. Site Designation

On August 7, 1989, at (54 FR 32351) EPA proposed designation of this site for the continuing disposal of dredged materials from the Brazos Island Harbor Entrance Channel. The public comment period on this proposed action closed on September 21, 1989. No comment letters were received.

The site is located approximately 1.6 miles from the coast at its closest point. The water depth at the site range from 55 to 65 feet. The coordinates of the rectangular-shaped site are as follows: 26° 04′ 32″ N., 97° 07′ 26″ W., 26° 04′ 32″ N., 97° 06′ 30″ W., 26° 04′ 02″ N., 97° 06′ 30″ W., 26° 04′ 02″ N., 97° 07′ 26″ W. If at anytime disposal operations at the site cause unacceptable adverse impacts, further use of the site will be restricted or terminated.

D. Regulatory Requirements

Five general criteria are used in the selection and approval of ocean disposal sites for continuing use. Sites are selected so as to minimize interference with other marine activities, to keep any temporary perturbations from the dumping from causing impacts outside the disposal site, and to permit effective monitoring to detect any adverse impacts at an early stage. Where feasible, locations off the Continental Shelf are chosen. If at any time disposal operations at an interim site cause unacceptable adverse impacts, the use of that site will be terminated as soon as suitable alternate disposal sites can be designated. The general criteria are given in § 228.5 of the EPA Ocean Dumping Regulations; § 228.6 lists eleven specific factors used in evaluating a disposal site to assure that the general criteria are met.

The site, as discussed below under the eleven specific factors, is acceptable under the five general criteria. EPA has determined, based on the information presented in the Final EIS, that a site off the Continental Shelf is not feasible due to monitoring difficulties, increased transportation costs and greater safety risks. No environmental benefit would be obtained by selecting such a site. The characteristics of the selected site are reviewed below in terms of the eleven factors.

1. *Geographical position, depth of water, bottom topography and distance from coast.* (40 CFR 228.6(a)(1))

Geographical position, average water depth, and distance from the coast for the disposal site are given above. Bottom topography is flat with no unique features or relief.

2. *Location in relation to breeding, spawning, nursery, feeding, or passage areas of living resources in adult or juvenile phases.* (40 CFR 228.6(a)(2))

Living resources' breeding, spawning, nursery and passage areas in the project area were identified as excluded areas during the site feasibility process and eliminated from consideration. To the north of the site, there is a fish haven which is excluded, as are the jetties, including one-mile buffer zones. The jetties provide a migratory passage for white shrimp, brown shrimp, blue crab, drum, sheepshead and southern flounder. Also excluded are non-

submerged shipwrecks which improve fishing.

3. *Location in relation to beaches and other amenity areas.* (40 CFR 228.6(a)(3)).

The site is approximately 1.5 miles from any beach or other amenity area; e.g., Brazos Island State Recreation Area.

4. *Types and quantities of wastes proposed to be disposed of, and proposed methods of release, including methods of packing the wastes, if any.* (40 CFR 228.6(a)(4))

Only maintenance material from the Brazos Island Harbor Entrance Channel will be disposed. Historically, an average of 350,000 cy/yr has been dredged from the channel at roughly 13-month intervals. This material has historically been transported by hopper dredges but could be transported by pipeline. Based on chemical analyses and biological toxicity studies of past maintenance material, it was concluded that no special location or precautions would be necessary for the disposal of the dredged materials.

5. *Feasibility of surveillance and monitoring.* (40 CFR 228.6(a)(5))

The site is amenable to surveillance and monitoring. A monitoring and surveillance program, consisting of water, sediment and elutriate chemistry; bioassays; bioaccumulation studies; and benthic infaunal analyses is proposed for the Brazos Island Harbor site.

6. *Dispersal, horizontal transport and vertical mixing characteristics of the area, including prevailing current direction and velocity, if any.* (40 CFR 228.6(a)(6))

Physical oceanographic parameters including dispersal, horizontal transport and vertical mixing characteristics were used: (1) To develop the necessary buffer zones for the siting feasibility analysis; and (2) to determine the minimum size of the site. Predominant longshore currents, and thus predominant longshore transport, is to the north. Long-term mounding has not historically occurred. Therefore, steady longshore transport and occasional storms, including hurricanes, remove the disposed material from the site.

7. *Existence and effects of current and previous discharges and dumping in the area (including cumulative effects).* (40 CFR 228.6(a)(7))

Based on the results of chemical and bioassay testing of past maintenance material and material from the existing disposal site plus chemical analyses of water from the area, there are no indications of water or sediment quality problems. Testing of past maintenance material indicated that it was acceptable for ocean disposal under 40 CFR part 227. Studies at the interim-designated site and nearby areas, however, have indicated that grain size and composition of the benthos at and south of the interim-designated site are significantly different from that north and further offshore. The disposal site, which encompasses much of the interim-designated site, was placed as near shore as possible to take advantage of the fact that the nearshore substrate is sandier than that further offshore.

8. *Interference with shipping, fishing, recreation, mineral extraction, desalination, fish and shellfish culture, areas of special scientific importance and other legitimate uses of the ocean.* (40 CFR 228.6(a)(8))

Impacts to shipping, mineral extraction, commercial and recreational fishing, recreational areas and historic sites have been evaluated for the Brazos Island Harbor site designation. The site will not interfere with these or other legitimate uses of the ocean because the siting feasibility process was designed to reduce the possibility of a site which would interfere. Disposal operations in the past have not interfered with other uses.

9. *The existing water quality and ecology of the site as determined by available data or by trend assessment or baseline surveys.* (40 CFR 228.6(a)(9))

Monitoring studies have shown only short-term water-column perturbations of turbidity, and perhaps increased chemical oxygen demand (COD), resulted from disposal operations. No short-term sediment quality perturbation has been directly related to disposal operations. In general, the water and sediment quality is good throughout the disposal area and there have been no long-term adverse impacts on water and sediment quality from disposal operations. However, there has been a long-term impact on the grain size, and thus, on the composition of the benthos at the interim-designated site.

10. *Potentiality for the development or recruitment of nuisance species in the disposal site.* (40 CFR 228.6(a)(10))

With a disturbance to any benthic community, initial recolonization will be opportunistic species. However, these species are not nuisance species in the sense that they would interfer with other legitimate uses of the ocean or that they are human pathogens. Continued disposal of maintenance material at the site should not attract nor promote the development or recruitment of nuisance species.

11. *Existence at or in close proximity to the site of any significant natural or cultural features of historical importance.* (40 CFR 228.6(a)(11))

Areas and features of historical importance were evaluated during the siting feasibility process. The nearest site of historical importance is located near the jetties and is well within the buffer zone surrounding the jetties. Use of the site would not impact any known historical or cultural sites.

E. Action

The EIS concludes that the site may appropriately be designated for use. The existing site is compatible with the five general criteria and eleven specific factors used for site evaluation. The designation of the Brazos Island Harbor site as an EPA approved ocean dumping site is being published as final rulemaking.

It should be emphasized that, if an ocean dumping site is designated, such a site designation does not constitute or imply EPA's approval of actual disposal of materials at sea. Before ocean dumping of dredged material at the site may occur, the Corps of Engineers must evaluate a permit application to approve or to disapprove or to propose conditions upon dredged material permits for ocean dumping. While the Corps does not administratively issue itself a permit, the requirements that must be met before dredged material derived from Federal projects can be discharged into ocean waters are the same as where a permit would be required.

F. Regulatory Assessments

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. EPA has determined that this action will not have a significant impact on small entities since the site designation will only have the effect of providing a disposal option for dredged material. Consequently, this rule does not necessitate preparation of a Regulatory Flexibility Analysis.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action will not result in an annual effect on the economy of $100 million or more or cause any of the other effects which would result in its being classified by the Executive Order as a "major" rule. Consequently, this rule does not necessitate preparation of a Regulatory Impact Analysis.

This Final Rule does not contain any information collection requirements subject to the Office of Management and Budget review under the Paperwork

Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

List of Subjects in 40 CFR Part 228

Water pollution control.

Dated: August 27, 1990.

Robert E. Layton, Jr.,

Regional Administrator of Region 6.

In consideration of the foregoing, subchapter H of chapter I of title 40 is amended as set forth below.

PART 228—[AMENDED]

1. The authority citation for part 228 continues to read as follows:

Authority: 33 U.S.C. Sections 1412 and 1418.

2. Section 228.12 is amended by removing from paragraph (a)(3) under "Dredged Material Sites" the heading for Brazos Island Harbor and Disposal Area No. 1 and adding paragraph (b)(78) to read as follows:

§ 228.12 Delegation of management authority for interim ocean dumping sites.

* * * * *

(b) * * *

(78) Brazos Island Harbor, Texas—Region 6.

Location: 26° 04′ 32″ N, 97° 07′ 26″ W; 26° 04′ 32″ N, 97° 06′ 30″ W; 26° 04′ 02″ N, 97° 06′ 30″ W; 26° 04′ 02″ N, 97° 07′ 26″ W. Size: 0.42 square nautical miles. Depth: Ranges from 55–65 feet. Primary Use: Dredged material. Period of Use: Indefinite period of time. Restriction: Disposal shall be limited to dredged material from the Brazos Island Harbor Entrance Channel, Texas.

* * * * *

[FR Doc. 90–21162 Filed 9–10–90; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 531

[Docket No. LVM 89–01; Notice 6]

Passenger Automobile Average Fuel Economy Standards; Final Decision to Grant Exemption

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

ACTION: Final decision.

SUMMARY: This decision is issued in response to a petition filed by Rolls-Royce Motors, Ltd. (Rolls-Royce) requesting that it be exempted from the generally applicable average fuel economy standard of 27.5 miles per gallon (mpg) for model year (MY) 1992, 1993, and 1994 passenger automobiles, and that lower alternative standards be established for it. This decision exempts Rolls-Royce and establishes alternative standards of 13.8 mpg for MY 1993, and 13.8 mpg for MY 1994. The decision was preceded by publication of a notice requesting public comments.

DATES: Effective Date: October 11, 1990. These exemptions and alternative standards apply to Rolls-Royce for model years 1992, 1993 and 1994. Petitions for reconsideration must be submitted by October 11, 1990.

ADDRESSES: Petitions for reconsideration should be submitted to: Administrator, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. It is requested, but not required, that 10 copies be provided.

FOR FURTHER INFORMATION CONTACT: Mr. Orron Kee, Office of Market Incentives, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Mr. Kee's telephone number is (202) 366–0846.

SUPPLEMENTARY INFORMATION: NHTSA is exempting Rolls-Royce from the generally applicable average fuel economy standard for 1992, 1993 and 1994 model year passenger automobiles and establishing an alternative standard applicable to Rolls-Royce for those model years. This exemption is issued under the authority of section 502(c) of the Motor Vehicle Information and Cost Savings Act, as amended ("the Act") (15 U.S.C. 2002(c)). Section 502(c) provides that a passenger automobile manufacturer which manufactures fewer than 10,000 passenger automobiles annually may be exempted from the generally applicable average fuel economy standard for a particular model year if that standard is greater than the low volume manufacturer's maximum feasible average fuel econoy and if NHTSA establishes an alternative standard for the manufacturer at its maximum feasible level. Section 502(e) of the Act (15 U.S.C. 2002(e) requires NHTSA, in determining maximum feasible average fuel economy, to consider:

(1) Technological feasibility;

(2) Economic practicability;

(3) The effect of other Federal motor vehicle standards on fuel economy; and

(4) The need of the Nation to conserve energy.

This final decision was preceded by a proposed decision announcing the agency's tentative conclusion that Rolls-Royce should be exempted from the generally applicable 1992, 1993, and 1994 passenger automobile average fuel economy standards, and that an alternative standard of 13.8 mpg should be established for Rolls-Royce in each of those model years (55 FR 21626, May 25, 1990). No comments were received on the proposed decision.

The agency is adopting the tentative conclusions set forth in the proposed decision as its final conclusions, for the reasons set forth in the proposed decision. Based on the conclusions that the maximum feasible average fuel economy level for Rolls-Royce in model years 1992, 1993, and 1994 is 13.8 mpg, that other Federal motor vehicle standards will not affect achievable fuel economy beyond the extent considered in the proposed decision, and that the national effort to conserve energy will not be affected by granting this requested exemption, NHTSA hereby exempts Rolls-Royce from the generally applicable passenger automobile average fuel economy standard for the 1992, 1993 and 1994 model years and establishes an alternative standard of 13.8 miles per gallon for Rolls-Royce for each of those years.

NHTSA has analyzed this decision, and determined that neither Executive Order 12291 nor the Department of Transportation's regulatory policies and procedures apply, because this decision is not a "rule," which term is defined as "an agency statement of general applicability and future effect." This exemption is not generally applicable, since it applies only to Rolls-Royce. If the Executive Order and the Departmental policies and procedures were applicable, the agency would have determined that this action is neither "major" nor "significant." The principal impact of this exemption is that Rolls Royce will not be required to pay civil penalties if they achieve CAFE levels equivalent to the alternative standards established in this notice. Since this decision sets an alternative standard at the level determined to be Rolls-Royce's maximum feasible average fuel economy, no fuel would be saved by establishing a higher alternative standard. The impacts for the public at large will be minimal.

The agency has also considered the environmental implications of this decision in accordance with the National Environmental Policy Act and determined that this decision will not significantly affect the human environment. Regardless of the fuel economy of a vehicle, it must pass the emissions standards which measure the amount of emissions per mile travelled. Thus, the quality of the air is not affected by this exemption and alternative standard. Further, since Rolls-Royce's MY 1992, 1993 and 1994 automobiles cannot achieve better fuel economy than 13.8 mpg, granting this exemption will not affect the amount of gasoline available.

Since the Regulatory Flexibility Act may apply to a decision exempting a manufacturer from a generally applicable standard, I certify that this decision will not have a significant economic impact on a substantial number of small entities. This decision does not impose any burden on Rolls-Royce. It does relieve the company from having to pay civil penalties for noncompliance with the generally applicable standards for model years 1992, 1993, and 1994. Since the prices of 1992, 1993 and 1994 Rolls-Royce automobiles will not be affected by this decision, the purchasers will not be affected. Generally, small businesses, small governmental jurisdictions, and small nonprofit entities are not purchasers of Rolls-Royce automobiles.

List of Subjects in 49 CFR Part 351

Energy conservation, Fuel economy, gasoline, imports, motor vehicles.

In consideration of the foregoing, 49 CFR part 531 is amended to read as follows.

PART 531—[AMENDED]

1. The authority citation for part 531 continues to read as follows:

Authority: 15 U.S.C. 2002; delegation of authority at 49 CFR 1.50.

2. Section 531.5(b) is amended by revising paragraph (b)(2); the introductory text of paragraph (b) is republished to read as follows:

§ 531.5 Fuel economy standards.

* * * * *

(b) The following manufacturers shall comply with the standards indicated below for the specified model years:

* * * * *

(2) Rolls-Royce Motors, Ltd.

Model year	Average Fuel Economy Standard (miles per gallon)
1978	10.7
1979	10.8
1980	11.1
1981	10.7
1982	10.6
1983	9.9
1984	10.0
1985	10.0
1986	11.0
1987	11.2
1988	11.2
1989	11.2
1990	12.7
1991	12.7
1992	13.8
1993	13.8
1994	13.8

* * * * *

Issued on: September 5, 1990.

Jeffrey R. Miller,

Deputy Administrator.

[FR Doc. 90-21198 Filed 9-10-90; 8:45 am]

BILLING CODE 4910-59-M

---

49 CFR Part 541

[Docket No. 90-19; Notice 01]

RIN 2127-AD33

Final Listing of High Theft Lines for 1991 Model Year; Motor Vehicle Theft Prevention Standard

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule; technical amendment.

SUMMARY: The purpose of this notice is to (1) report the results of this agency's actions for determining which car lines are subject to the marking requirements of the motor vehicle theft prevention standard for the 1991 model year, and (2) publish a list of those car lines. NHTSA has previously published lists of the car lines that were selected as high theft car lines for prior model years, beginning with the 1987 model year. The list in this notice includes all of the car lines in the previous lists, as well as five new lines that were introduced for the 1991 model year and that have been selected as likely high theft lines. In addition, this listing shows the two additional lines that have standard equipment anti-theft devices and have been granted exemptions from the requirements of the theft prevention standard beginning with the 1991 model year. Two more car lines have been exempted in part and are required to have only their engines and transmissions marked.

This final listing for the 1991 model year is intended to inform the public, particularly law enforcement groups, of the car lines that are subject to the marking requirements of the theft prevention standard for the 1991 model year.

EFFECTIVE DATE: This listing applies to the 1991 model year. The amendment made by this notice is effective September 11, 1990.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara A. Gray, Office of Market Incentives, NHTSA, 400 Seventh Street, SW. Washington, DC 20590 (202-366-4808).

SUPPLEMENTARY INFORMATION: Federal Motor Vehicle Theft Prevention Standard, 49 CFR part 541, sets forth requirements for inscribing or affixing identification numbers onto covered original equipment major parts, and the replacement parts for those original equipment parts, on all vehicles in lines selected as high theft lines.

Section 603(a)(2) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2023(a)(2); hereinafter "the Cost Savings Act") specifies that NHTSA shall select the high theft lines, with the agreement of the manufacturer, if possible. Section 603(d) of the Cost Savings Act (15 U.S.C. 2023(d)) provides that once a line has been designated as a high theft line, it remains subject to the theft prevention standard unless that line is exempted under section 605 of the Cost Savings Act (15 U.S.C. 2025). Section 605 provides that a manufacturer may petition to have a high theft line exempted from the requirements of part 541, if the line is equipped as standard equipment with an anti-theft device. The exemption is granted if NHTSA determines that the anti-theft device is likely to be as effective as compliance with part 541 in reducing and deterring motor vehicle thefts.

The agency annually publishes a list of the lines so selected for previous model years. This notice is intended to inform the public, particularly law enforcement groups, of the high-theft car lines for the 1991 model year, and of those car lines that are exempted from the theft prevention standard for the 1991 model year because of standard equipment anti-theft devices.

The list includes the five new 1991 car lines selected by the agency in accordance with procedures published in 49 CFR part 542 as likely to be high theft lines. The list also includes all those lines that were selected as high theft lines and listed for prior model years. For model year 1990, the Alfa Romeo 164 car line was incorrectly identified as the Fiat 164. The Alfa Romeo 164 is correctly identified for the 1991 model year.

This notice also includes four high theft lines exempted by the agency, beginning in MY 1991, from the parts marking requirements of part 541. Two of these car lines are exempted in full from part 541 and two are extempted in part.

Notice and comment; effective date. The car lines listed as being subject to the standard have been selected as high theft lines in accordance with the procedures of 49 CFR part 542 and section 603 of the Cost Savings Act. Under these procedures, manufacturers evaluate new car lines to conclude whether those new lines are likely to have high theft rates. Manufacturers submit these evaluations and

conclusions to the agency, which makes an independent evaluation, and, on a preliminary basis, determines whether the new line should be subject to parts marking. NHTSA informs the manufacturer in writing of its evaluations and determinations, together with the factual information considered by the agency in making them. The manufacturer may request the agency to reconsider these preliminary determinations. Within 60 days of the receipt of the request, NHTSA makes its final determination. NHTSA informs the manufacturer by letter of these determinations and its response to the request for reconsideration. If there is no request for reconsideration, the agency's determination becomes final 45 days after sending the letter with the preliminary determination. Each of the new car lines on the high theft list is the subject of a final determination.

Similarly, the car lines listed as being exempt from the standard have been exempted in accordance with the procedures of 49 CFR part 543 and section 605 of the Cost Savings Act.

Therefore, NHTSA finds for good cause that notice and opportunity for comment on this listing are unnecessary. Further, public comment on the listing of selections and exemptions is not contemplated by title VI, and is unnecessary after the selections and exemptions have been made in accordance with the statutory criteria.

For the same reasons, since this revised listing only informs the public of previous agency actions, and does not impose any additional obligations on any party, NHTSA finds for good cause that the amendment made by this notice should be effective as soon as it is published in the Federal Register.

Regulatory impacts. NHTSA has determined that this rule listing the car lines that are high theft and are subject to the requirements of the vehicle theft prevention standard and the car lines that are exempt from the standard is neither "major" within the meaning of Executive Order 12291 nor "significant" within the meaning of Department of Transportation regulatory policies and procedures. As noted above, the selections have previously been made in accordance with the provisions of the Cost Savings Act, and the manufacturers of the selected lines have already been informed that those lines are subject to the requirements of part 541 for the 1991 model year. Further, this listing does not actually exempt lines from the requirements of part 541; it only informs the general public of all such previously granted exemptions. Since the only purpose of this final listing is to inform the public of prior agency action for the 1991 model year, a full regulatory evaluation has not been prepared.

The agency has also considered the effects of this listing under the Regulatory Flexibility Act. I hereby certify that this rule will not a have a significant economic impact on a substantial number of small entities. As noted above, the effect of this notice is simply to inform the public of those lines that are subject to the requirements of part 541 for the 1991 model year. The agency believes that listing of this information will not have any economic impact on small entities.

In accordance with the National Environmental Policy Act of 1969, the agency has considered the environmental impacts of this rule, and determined that it will not have any significant impact on the quality of the human environment.

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

List of Subjects in 49 CFR Part 541

Administrative practice and procedure, Labeling, Motor vehicles, Reporting and recordkeeping requirements.

PART 541—[AMENDED]

In consideration of the foregoing, 49 CFR part 541 is amended as follows:

1. The authority citation for part 541 continues to read as follows:

Authority: 15 U.S.C. 2021–2024, and 2026; delegation of authority at 49 CFR 1.50.

2. Appendix A of part 541 is revised to read as follows, Appendix A–I revised to read as follows, and Appendix A–II is revised to read as follows:

APPENDIX A—LINES SUBJECT TO THE REQUIREMENTS OF THIS STANDARD

Manufacturer	Subject lines
Alfa Romeo	Milano 161.
	164
BMW	3—Car line.
	5—Car line.
	6—Car line.
Chrysler	Chrysler Executive Sedan/Limousine.
	Chrysler Fifth Avenue/Newport.
	Chrysler Laser.
	Chrysler LeBaron/Town & Country.
	Chrysler LeBaron GTS.
	Chrysler TC.
	Chrysler Eagle Talon.

APPENDIX A—LINES SUBJECT TO THE REQUIREMENTS OF THIS STANDARD—Continued

Manufacturer	Subject lines
Chrysler	Chrysler New Yorker Fifth Avenue.
	Dodge Aries.
	Dodge Daytona.
	Dodge Diplomat.
	Dodge Lancer.
	Dodge 600.
	Dodge Stealth.[1]
	Plymouth Caravelle.
	Plymouth Laser.
	Plymouth Gran Fury.
	Plymouth Reliant.
Consulier	Consulier GTP.[1]
Ferrari	Mondial 8.
	308.
	328.
Ford	Ford Mustang.
	Ford Thunderbird.
	Ford Probe.
	Mercury Capri.
	Mercury Cougar.
	Lincoln Continental.
	Lincoln Mark.
	Lincoln Town Car.
	Merkur Scorpio.
	Merkur XR4Ti.
General Motors	Buick Electra.
	Buick LeSabre.
	Buick Reatta.
	Buick Regal.
	Buick Riviera.
	Cadillac DeVille.
	Cadillac Eldorado.
	Cadillac Seville.
	Chevrolet Nova.
	Chevrolet Lumina.
	Oldsmobile Cutlass Supreme.
	Oldsmobile Delta 88.
	Oldsmobile Toronado.
	Pontiac Bonneville.
	Pontiac Fiero.
	Pontiac Grand Prix.
	Geo Prizm.
	Geo Storm.
Isuzu	90JZ
	90JX [1]
Jaguar	XJ
	XJ–6
	XJ–40
Lotus	M100.
	Lotus Elan.[1]
Maserati	Biturbo.
	Quattroporte.
	228.
Mazda	GLC.
	626.
	MX–6.
	MX–5 Miata.
Mercedes-Benz	190 D–E.
	250D-T.
	260 E.
	300 CE.
	300 D/E.
	300 SE.
	300 SL.
	300 TD.
	300 TE.
	300 SDL.
	300 SEL.
	380 SEC/500 SEC.
	380 SEL/500 SEL.
	380 SL.
	420 SEL.
	500 SL.
	560 SEL.
	560 SEC.

APPENDIX A—LINES SUBJECT TO THE REQUIREMENTS OF THIS STANDARD—Continued

Manufacturer	Subject lines
Mitsubishi	560 SL.
	Cordia.
	Tredia.
	Eclipse.
	3000GT.[1]
Peugeot	405.
Porsche	924S.
Reliant	SS1.
Saab	900.
Subaru	XT.
Toyota	Camry.
	Celica.
	Corolla/Corolla Sport.
	MR2.
	Starlet.
Volkswagen	Audi Quattro.
	Volkswagen Cabriolet.
	Volkswagen Rabbit.
	Volkswagen Scirocco.
	Volkswagen Corrado.

[1] Car lines added in Model Year 1991.

APPENDIX A-I.—HIGH-THEFT LINES WITH ANTITHEFT DEVICES THAT ARE EXEMPTED FROM THE REQUIREMENTS OF THIS STANDARD PURSUANT TO 49 CFR PART 543

Manufacturer	Exempted lines
Austin Rover	Sterling.
BMW	7—Car line.
Chrysler	Chrysler Conquest.
	Imperial.
General Motors	Cadillac Allante.
	Chevrolet Corvette.
Honda	Acura NS-X.**
	Acura Legend.**
Isuzu	Impulse.
Mazda	929.
	RX 7.
Mitsubishi	Galant.
	Starion.
Nissan	Maxima.
	300 ZX.
	Infiniti M30.
	Infiniti Q45.
Porsche	911.
	928.
Saab	9000.
Toyota	Supra.
	Cressida.
	Lexus LS400.
	Lexus ES250.
Volkswagen	Audi 5000S.
	Audi 100.
	Audi 200.
Volvo	480ES.

**Lines exempted in full from the requirements of part 541 pursuant to 49 CFR part 543, beginning from MY 1991.

APPENDIX A-II.—HIGH THEFT LINES WITH ANTITHEFT DEVICES THAT ARE EXEMPTED IN PART FROM THE PARTS-MAKING REQUIREMENTS OF THIS STANDARD PURSUANT TO 49 CFR PART 543

Manufacturer	Exempted lines	Parts marked
General Motors.	Chevrolet Camaro.	Engine, Transmission.
	Pontiac Firebird.	Engine, Transmission.
	Cadillac DeVille-Fleetwood.***	Engine, Transmission.
	Oldsmobile 98.***.	Engine, Transmission.

***Lines exempted in part from the requirements of part 541 pursuant to 49 CFR part 543, beginning from MY 1991.

Issued on September 5, 1990.

Jeffrey R. Miller,

Deputy Administrator.

[FR Doc. 90-21199 Filed 9-10-90; 8:45 am]

BILLING CODE 4910-59-M

---

49 CFR Part 571

[Docket No. 87-07, Notice 04]

RIN 2127-AC26

Federal Motor Vehicle Safety Standards; Motor Vehicle Brake Fluids

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Technical amendment.

SUMMARY: This notice corrects the labeling requirements of Standard No. 116, *Motor Vehicle Brake Fluids*, to reinstate portions of the standard that had been inadvertently removed through administrative error. Standard No. 116 had set forth detailed safety information that had to be labeled on brake fluid and hydraulic system mineral oil containers. When the method of placing this information on these containers was amended in 1988 (to allow the use of permanently affixed labels), the notice making the amendment inadvertently removed the portions of the standard which described the required information. This notice replaces those descriptive paragraphs.

EFFECTIVE DATE: October 11, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Vern Bloom, Office of Vehicle Safety Standards, NRM-11, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC, 20590. Telephone (202) 366-5277.

SUPPLEMENTARY INFORMATION: On June 28, 1988, the agency published a final rule, effective December 27, 1988, amending Standard No. 116 to permit the use of permanently-affixed labels (e.g., paper or plastic labels) on brake fluid containers to satisfy the container information requirements of the standard. (53 FR 24272) The amendatory language NHTSA chose to identify the portions of the standard that were changed was interpreted by the Federal Register as removing paragraphs in the standard that described the safety information that had to be placed on the containers (i.e., S5.2.2.2 (a) through (g) and S5.2.2.3 (a) through (e)). The agency wished to retain those paragraphs.

NHTSA's intent to retain the paragraphs is apparent in the preamble to the final rule. There the agency explained at length that the safety information placed on brake fluid containers is important for the proper storage and use of the fluids. NHTSA stated:

> The safety warnings required on brake fluid and hydraulic system mineral oil containers warn against certain practices in using hydraulic fluid for braking systems that might result in the use of improper or contaminated fluids. The warnings also help to prevent improper storage of the brake fluid which could contaminate the fluid or cause it to absorb moisture. Avoiding the absorption of moisture is extremely important since moisture in a brake system degrades braking performance and safety by lowering the brake fluid's boiling point, increasing the fluid's viscosity at low atmospheric temperatures and increasing the risk of brake system component corrosion. Lower boiling points increase the risk of brake system failure and increase the possibilities of vapor lock. The safety warnings also alert users of brake fluid containers with capacities less than five gallons that the containers should not be refilled. (53 FR at 24273.)

The preamble to the final rule only discussed amendments to the method of labeling the safety information on brake fluid containers (i.e., the introductory text to S5.2.2.2 and S5.2.2.3) and not changes in the agency's position regarding the benefits of labeling containers or the contents of that labeling.

The agency's intent to retain paragraphs S5.2.2.2 (a) through (g) and S5.2.2.3 (a) through (e) is further evidenced by the agency's referencing those paragraphs in S5.2.2.2 and S5.2.2.3 when NHTSA amended these sections in the June 1988 final rule. For example, the introductory text to S5.2.2.2 requires brake fluid packagers to "furnish the information specified in paragraphs (a) through (g) of this section . . ."

Nevertheless, Standard No. 116 has been published without paragraphs S5.2.2.2 (a) through (g) and S5.2.2.3 (a) through (e). This notice corrects that error by reinstating those paragraphs.

Because the amendment is corrective in nature and the public has already had notice and an opportunity to comment on the standard's labeling requirements, NHTSA has determined that a second notice and opportunity to comment thereon are not necessary, and that for good cause shown that an effective date earlier than 180 days after issuance of the rule is in the public interest. The amendment is effective 30 days after publication in the **Federal Register**.

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 571

Imports, motor vehicle safety, motor vehicles, Reporting and recordkeeping requirements, Tires.

In consideration of the foregoing, 49 CFR part 571 is amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

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

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

2. Section 571.116 is amended by revising S5.2.2.2 and S5.2.2.3 to read as follows:

§ 571.116 Standard No. 116; Motor vehicle brake fluids.

* * * * *

S5.2.2.2 Each packager of brake fluid shall furnish the information specified in paragraphs (a) through (g) of this S5.2.2.2 by clearly marking it on each brake fluid container or on a label (labels) permanently affixed to the container, in any location except a removable part such as a lid. After being subjected to the operations and conditions specified in S6.14, the information required by this section shall be legible to an observer having corrected visual acuity of 20/40 (Snellen ratio) at a distance of one foot, and any label affixed to the container in compliance with this section shall not be removable without its being destroyed or defaced.

(a) Certification that the brake fluid conforms to § 571.116.

(b) The name of the packager of the brake fluid, which may be in code form.

(c) The name and complete mailing address of the distributor.

(d) A serial number identifying the packaged lot and date of packaging.

(e) Designation of the contents as "DOT____MOTOR VEHICLE BRAKE FLUID" (Fill in "3," "4," or "5" as applicable).

(f) The minimum wet boiling point in Fahrenheit of the DOT brake fluid in the container.

(g) The following safety warnings in capital and lower case letters as indicated:

(1) FOLLOW VEHICLE MANUFACTURER'S RECOMMENDATIONS WHEN ADDING BRAKE FLUID.

(2) KEEP BRAKE FLUID CLEAN AND DRY. Contamination with dirt, water, petroleum products or other materials may result in brake failure or costly repairs.

(3) STORE BRAKE FLUID ONLY IN ITS ORIGINAL CONTAINER. KEEP CONTAINER CLEAN AND TIGHTLY CLOSED TO PREVENT ABSORPTION OF MOISTURE. (The last five words of the second sentence may be omitted from the labeling on DOT 5 containers.)

(4) *CAUTION:* DO NOT REFILL CONTAINER, AND DO NOT USE FOR OTHER LIQUIDS. (Not required for containers with a capacity in excess of 5 gallons.)

S5.2.2.3 Each packager of hydraulic system mineral oil shall furnish the information specified in paragraphs (a) through (e) of this S5.2.2.3 by clearly marking it on each brake fluid container or on a label (labels) permanently affixed to the container, in any location except a removable part such as a lid. After being subjected to the operations and conditions specified in S6.14, the information required by this section shall be legible to an observer having corrected visual acuity of 20/40 (Snellen ratio) at a distance of one foot, and any label affixed to the container in compliance with this section shall not be removable without its being destroyed or defaced.

(a) The name of the packager of the hydraulic system mineral oil, which may be in code form.

(b) The name and complete mailing address of the distributor.

(c) A serial number identifying the packaged lot and date of packaging.

(d) Designation of the contents as "HYDRAULIC SYSTEM MINERAL OIL" in capital letters at least ⅛ of an inch high.

(e) The following safety warnings in capital and lower case letters as indicated:

(1) FOLLOW VEHICLE MANUFACTURER'S RECOMMENDATIONS WHEN ADDING HYDRAULIC SYSTEM MINERAL OIL.

(2) Hydraulic System Mineral Oil is NOT COMPATIBLE with the rubber components of brake systems designed for use with DOT brake fluids.

(3) KEEP HYDRAULIC SYSTEM MINERAL OIL CLEAN. Contamination with dust or other materials may result in brake failure or costly repair.

(4) *CAUTION:* STORE HYDRAULIC SYSTEM MINERAL OIL ONLY IN ITS ORIGINAL CONTAINER. KEEP CONTAINER CLEAN AND TIGHTLY CLOSED. DO NOT REFILL CONTAINER OR USE OTHER LIQUIDS. (The last sentence is not required for containers with a capacity in excess of 5 gallons.)

* * * * *

Issued on September 5, 1990.

Jeffrey R. Miller,

Deputy Administrator.

[FR Doc. 90-21200 Filed 9-10-90; 8:45 am]

BILLING CODE 4910-59-M

---

49 CFR Part 592

[Docket No. 89-6; Notice 4]

RIN 2127-AC97

Registered Importers of Vehicles not Originally Manufactured To Conform to the Federal Motor Vehicle Safety Standards

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

ACTION: Technical Amendments; final rule.

SUMMARY: This notice contains technical amendments of the final rule published on September 29, 1989, which established requirements for the registration of importers of vehicles not originally manufactured to conform to the Federal motor vehicle safety standards. The amendments provide a more complete mailing address and a corrected FAX number.

EFFECTIVE DATE: The amendments are effective September 11, 1990.

FOR FURTHER INFORMATION CONTACT: Taylor Vinson, Office of Chief Counsel, NHTSA (202-366-5263).

SUPPLEMENTARY INFORMATION: On September 29, 1989, NHTSA published a notice that established 49 CFR part 592, *Registered Importers of Vehicles Not Originally Manufactured to Conform to the Federal Motor Vehicle Safety Standards* (54 FR 40083).

In § 592.5(a)(1), the address to which applications for registration as importers should be sent was stated simply as "Washington, DC 20590, Attn: Importer Registration." In § 592.8(b), the address or FAX number to which registered importers must submit certifications of compliance was stated simply as "Washington, DC 20590, Attn: NEF-32, or be submitted electronically by FAX (202-366-2536)."

NHTSA wishes to add a more complete address as well as to provide a new FAX number. Therefore it is adding a room number and street address to the addresses previously given, and revising the referenced FAX number. Because the amendments are technical in nature and have no substantive impact, it is hereby found that notice and public comment thereon are unnecessary. Further, because the amendments are technical in nature, they are effective upon publication in the **Federal Register**.

In consideration of the foregoing part 592 of 49 CFR is amended as follows:

PART 592—[AMENDED]

1. The authority citation for part 592 continues to read as follows:

Authority: Public Law 100-562, 15 U.S.C. 1401, 1407; delegation of authority at 49 CFR 1.50.

§ 592.5 [Amended]

2. In § 592.5(a)(1), the phrase "Washington, DC 20590, Attn: Importer Registration" is removed, and the phrase "Room 6115, 400 7th Street SW., Washington, DC 20590, Attn: NEF-32 Importer Registration" is inserted in its place.

§ 592.8 [Amended]

3. In § 592.8(b), the phrase "Washington, DC 20590, Attn: NEF-32, or be submitted electronically by FAX (202-366-2536)" is removed, and the phrase "Room 6115, 400 7th Street SW., Washington, DC 20590, Attn: NEF-32, or be submitted electronically by FAX (202-366-1024)" is inserted in its place.

Issued on September 5, 1990.

Jeffrey R. Miller,

Deputy Administrator.

[FR Doc. 90-21201 Filed 9-10-90; 8:45 am]

BILLING CODE 4910-59-M

---

49 CFR Part 593

[Docket No. 89-7; Notice 3]

RIN 2127-AC98

Determinations That a Vehicle not Originally Manufactured To Conform to the Federal Motor Vehicle Safety Standards is Eligible for Importation

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

ACTION: Technical amendments; final rule.

SUMMARY: This notice contains technical amendments of the final rule published on September 29, 1989, which established requirements for determinations that a vehicle not originally manufactured to conform to the Federal motor vehicle safety standards is eligible for importation. The amendments provide a more complete mailing address and correct a paragraph designation.

EFFECTIVE DATE: The amendments are effective September 11, 1990.

FOR FURTHER INFORMATION CONTACT: Taylor Vinson, Office of Chief Counsel, NHTSA (202-366-5263).

SUPPLEMENTARY INFORMATION: On September 29, 1989, NHTSA published a notice that established 49 CFR part 593, *Determinations That a Vehicle Not Originally Manufactured to Conform to the Federal Motor Vehicle Safety Standards is Eligible for Importation* (54 FR 40093).

In § 593.5(b)(2), the address to which petitions for eligibility determinations should be sent was stated (after the name of the agency) simply as "Washington, DC 20590, Attn: Import Eligibility Determination." NHTSA wishes to add a more complete address and therefore it is adding a room number and street address and an internal mailing route code (NEF-32) to the address in § 593.5(b)(2).

In addition, in § 593.7, subsection (e) is immediately followed by subsection (g). This is an error, and subsection (g) is redesignated subsection (f).

Because the amendments are technical in nature and have no substantive impact, it is hereby found that notice and public comment thereon are unnecessary. Further, because the amendments are technical in nature, they are effective upon publication in the **Federal Register**.

In consideration of the foregoing part 593 of 49 CFR is amended as follows:

PART 593—[AMENDED]

1. The authority citation for part 593 continues to read as follows:

Authority: Public Law 100-562, 15 U.S.C. 1401, 1407; delegation of authority at 49 CFR 1.50.

§ 593.5 [Amended]

2. In § 593.5(b)(2), the phrase "Washington, DC 20590, Attn: Import Eligibility Determinations" is removed, and the phrase "Room 6115, 400 7th Street SW., Washington, DC 20590, Attn: NEF-32 Import Eligibility Determinations" is inserted in its place.

§ 593.7 [Amended]

3. In § 593.7, paragraph (g) is redesignated paragraph (f).

Issued on September 5, 1990.

Jeffrey R. Miller,

Deputy Administrator.

[FR Doc. 90-21202 Filed 9-10-90; 8:45 am]

BILLING CODE 4910-59-M

Proposed Rules

Federal Register
Vol. 55, No. 176
Tuesday, September 11, 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 Part 71

[Airspace Docket No. 90-ACE-15]

Proposed Alteration of Transition Area; Columbia, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This Notice proposes to alter the 700-foot transition area at Columbia, Missouri. The E.W. Cotton Woods Memorial Airport has changed status from public use IFR to private use VFR. Accordingly, the FAA proposes to remove that portion of the Columbia, Missouri, transition area that is based on the E.W. Cotton Woods Memorial Airport.

DATES: Comments must be received on or before October 7, 1990.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Manager, System Management Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 426-3408.

The official docket may be examined at the Office of the Assistant Chief Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Manager, System Management Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis G. Earp, Airspace Specialist, System Management Branch, Air Traffic Division, ACE-530, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 426-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the System Management Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before the closing date for comments will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, System Management Branch, 601 East 12th Street, Kansas City, Missouri 64106, or by calling (816) 426-3408.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMS 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 subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR part 71) to altering the 700-foot transition area at Columbia, Missouri. The E.W. Cotton Woods Memorial Airport, Columbia, Missouri, has changed status from public-use IFR to private-use VFR. Accordingly, this action proposes to remove that portion of the Columbia, Missouri, 700-foot transition area which is based on the E.W. Cotton Woods Memorial Airport. Section 71.181 of part 71 of the Federal Aviation Regulations was republished in 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. Therefore, 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) 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 proposed 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.

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 Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

2. Section 71.181 is amended as follows:

§ 71.181 [Revised]

Columbia, Missouri

That airspace extending upward from 700 feet above the surface within an 8½-mile radius of Columbia Regional Airport (lat. 38°48'49" N. long. 092°13'12" W.); within 2½ miles each side of the Hallsville, Missouri, VORTAC 193° radial extending from the 8½-mile radius area to 10 miles south of the VORTAC; excluding the portion which overlies the Jefferson City, Missouri, 700 foot floor transition area.

Issued in Kansas City, Missouri, on August 23, 1990.

Don A. Peterson,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 90-21213 Filed 9-10-90; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Regulations No. 16]

RIN 0960-AC13

Federal Administration of State Supplementary Payments to Individuals in Medicaid Facilities

AGENCY: Social Security Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The proposed regulations reflect section 12201(b) of Public Law 99-272 (the Consolidated Omnibus Budget Reconciliation Act of 1985, enacted April 7, 1986). Section 12201(b) permits Federal administration of optional State supplementary payments to individuals in medical facilities that receive title XIX (Medicaid) funds at a level exceeding 50 percent of the cost of their care (Medicaid facilities). Currently, the regulations prohibit Federal administration of optional State supplementary payments to a person who, throughout any month, is in a Medicaid facility. Under these regulations States will have the option of having the Social Security Administration (SSA) administer optional State supplementary payments to these individuals. States will be limited to one State supplementary payment level variation for residents of Medicaid facilities (Federal living arrangement "D").

DATES: We will consider your comments if we receive them no later than November 13, 1990.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, MD 21235, or delivered to the Office of Regulations, Social Security Administration, 3-B-1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, between 8 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Duane Heaton, Legal Assistant, 3-B-1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, (301) 965-8470.

SUPPLEMENTARY INFORMATION: The proposed regulations affect the Supplemental Security Income (SSI) program under title XVI of the Social Security Act (the Act), as amended. The purpose of the SSI program is to provide a minimum income level for aged, blind, and disabled people who do not have income or resources above levels specified in the Act. The Act also provides for State-funded supplementation programs. A State and SSA may agree, under section 1616 of the Act, to Federal administration of the State's supplementary payment program. The terms of administration are prescribed both in regulations and in written agreements we execute with each State for which we administer supplementary payments. To the extent that Medicaid eligibility is based on Title XVI eligibility, these regulations will also affect the Medicaid program.

Currently, 20 CFR 416.2030 provides that a State may elect up to five federally administered optional supplementary payment level variations based on differences in living arrangements. Types of living arrangements for which variations may be allowed include arrangements such as:

a. An individual or couple living alone;
b. An individual living with an ineligible spouse;
c. Residence in a personal care facility; or
d. Residence in a domiciliary or congregate care facility.

The current regulations at 20 CFR 416.2040(b) preclude eligibility for federally administered optional State supplementary payments for any individual who is, throughout any month, in a facility in which the Medicaid program pays for more than 50 percent of the cost of the individual's care (a Medicaid facility). On April 7, 1986, the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99-272) was enacted. Section 12201(b) of that Act permits any State with a federally administered optional supplementation program to modify its supplementation agreement with the Secretary to allow Federal administration of an optional supplementary payment to any individual in a Medicaid facility.

To implement this legislative enactment, these proposed regulations allow the States to elect up to six federally administered optional supplementary payment level variations based on differences in living arrangements. These proposed regulations make it clear, however, that if a State elects a sixth payment level variation, one of these variations must apply only to individuals in Medicaid facilities (Federal living arrangement "D") Furthermore, only one payment level variation applicable to individuals in Federal living arrangement "D" will be permitted.

In the past, there has been congressional interest in limiting the total number of payment level variations for federally admnistered State supplementary payments. In 1977, the Senate Finance Committee issued a report on the SSI program that found that "such variations should be the exception rather than the rule and * * * should be agreed to only when they would not materially affect either the cost or efficiency of the program's administration." (Staff of Senate Comm. on Finance, 95th Cong., 1st Sess., Report on the Supplemental Security income Program, 70 (Comm. Print 1977).) The report concluded that when Congress enacted the SSI statute a "legislative policy decision * * * was made * * * to allow only the most simplified types of State supplementation." (*Id.* at 71.) Moreover, in amending that statute to allow for the Federal administration of State supplementary payments for individuals in Medicaid facilities, Congress was aware of the limitation on the number of payment variations and was reacting to the need for the Federal administration of this particular living arrangement variation and not to any need to increase the maximum number of payment variations which could be federally administered. We concluded that, when read with this legislative background, section 12201(b) of Public Law 99-272 could be reasonably interpreted to authorize only the most limited expansion of permissible variations. Consequently, in view of this legislative history, systems constraints and administrative and cost concerns associated with implementing other payment variations, only one payment level variation will be permitted for Federal living arrangement "D"cases.

Regulatory Procedures

Executive Order No. 12291

The Secretary has determined that this is not a major rule under Executive Order 12291 because there will be no additional program costs. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities because they affect only individuals and States. Therefore, a regulatory flexibility analysis as provided in Public Law 96-354, the Regulatory Flexibility Act, is not required.

Paperwork Reduction Act

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

(Catalog of Federal Domestic Assistance Program No. 13-807, Supplemental Security Income Program)

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental security income.

Dated: June 15, 1990.

Gwendolyn S. King,

Commissioner of Social Security.

Approved: August 13, 1990.

Louis W. Sullivan,

Secretary of Health and Human Services.

For the reasons set out in the preamble, part 416 of title 20 of the Code of Federal Regulations is proposed to be amended as follows:

1. The authority citation for subpart T of part 416 continues to read as follows:

Authority: Secs. 1102, 1616, 1618, and 1631 of the Social Security Act; 42 U.S.C. 1302, 1382e, 1382g, and 1383; sec. 212 of Pub. L. 93-66, 87 Stat. 155; sec. 401 of Pub. L. 92-603, 86 Stat. 1485; sec. 8 of Pub. L. 93-233, 87 Stat. 956; secs. 1 and 2 of Pub. L. 93-335, 88 Stat. 291.

2. In § 416.2030, paragraph (a)(2) is revised to read as follows:

§ 416.2030 Optional supplementation: variations in payments.

(a) *Payment level.* * * *

(2) *Living arrangements.* In addition, a State may elect up to six variations in recognition of the different needs which result from various living arrangements. If a State elects six payment level variations based on differences in living arrangements, one of these six variations must apply only to individuals in Medicaid facilities, that is, facilities receiving title XIX payments with respect to such persons for the cost of their care (see § 416.211(b)(1)). In any event, States are limited to one payment level variation for residents of Medicaid facilities. Types of other living arrangements for which payment variations may be allowed include arrangements such as:

(i) Living alone;

(ii) Living with an ineligible spouse;

(iii) Personal care facility; or

(iv) Domiciliary or congregate care facility.

* * * * *

§ 416.2040 [Amended]

3. In § 416.2040, paragraph (b) is removed and paragraph (c) is redesignated as paragraph (b).

[FR Doc. 90-21627 Filed 9-10-90; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 56, 57, 58, 70, 71, 72, and 75

RIN 1219-AA48

Air Quality, Chemical Substances, Respiratory Protection Standards; Public Hearings

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Proposed rules; notice of public hearings.

SUMMARY: The Mine Safety and Health Administration (MSHA) will hold the second of three sets of public hearings on its August 28, 1989, proposed rule addressing air quality, chemical substances and respiratory protection in mining. The hearings will be held in Washington, DC and San Francisco, California. Each hearing will cover carcinogens, asbestos construction work, means of control, respiratory protection, and medical surveillance.

DATES: All requests to make oral presentations for the record should be submitted at least 5 days before the hearing date. Immediately before the hearing, any unallotted time will be made available to persons making later requests. The public hearings will be held Friday, October 12, 1990 and Friday, October 19, 1990. Both hearings will begin at 9 a.m.

ADDRESSES: The hearings will be held at the following locations:

October 12, 1990—Frances Perkins Department of Labor Building, Main Auditorium, Third and Constitution Avenue NW., Washington, DC 20210.

October 19, 1990—Phillip Burton Building, 450 Golden Gate Avenue, Gold Room (Second Floor), San Francisco, California 94102.

Send requests to make oral presentations to: Mine Safety and Health Administration, Office of Standards, Regulations and Variances, Room 631, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, MSHA, (703) 235-1910.

SUPPLEMENTARY INFORMATION: On August 29, 1989, MSHA published a proposed rule to revise its standards for air quality, chemical substances, and respiratory protection for coal, metal, and nonmetal mines (54 FR 35760). The Agency initially scheduled the written comment period for the proposed rule to close on November 27, 1989. On October 19, 1989, MSHA extended the comment period to March 2, 1990 (54 FR 43206), in response to requests from the mining community. On January 25, 1990 (54 FR 2535), the Agency set three separate comment periods for different provisions in the proposal and announced its intent to hold a series of three sets of public hearings.

The comment period for the first group of provisions closed on March 2, 1990, and hearings were held on June 4 and 6, 1990. The comment period for the second group of provisions closed on June 29, 1990. These provisions are: Carcinogens, asbestos construction work, means of control, respiratory protection, and medical surveillance.

The purpose of the public hearings is to receive relevant comments and respond to questions about the proposed rule. The hearings will be conducted in an informal manner by a panel of MSHA officials. Although formal rules of evidence will not apply, the presiding official may exercise discretion in excluding irrelevant or unduly repetitious material and questions.

The session will begin with an opening statement from MSHA, followed by an opportunity for members of the public to make oral presentations. The hearing panel will be available to answer relevant questions. At the discretion of the presiding official, speakers may be limited to a maximum of 20 minutes for their presentations. Verbatim transcripts of the proceedings will be taken and made a part of the rulemaking record. Copies of the hearing transcripts will be made available to the public for reivew.

The record will remain open through December 1990 on all provisions of the rule. Therefore, MSHA will continue to accept additional wirtten comments and other appropriate data from any itnerested party, including those not presenting oral statements.

Issues

Commenters posed various questions about provisions contained in the proposed rule. Of greatest concern to commenters are the issues discussed below. MSHA particularly requests comments on these issues during the hearings in addition to other aspects of

the provisions addressed in this phase of the rulemaking.

A. Means of Control

The proposed rule would continue MSHA's existing policy on the hierarchy of controls. The standard would require mine operators to reduce worker exposure to airborne substances through feasible engineering or administrative controls. When appropriate controls do not reduce exposure to the permissible exposure limit (PEL), the controls would have to be used to reduce exposure as low as feasible and be supplemented with respiratory protection. Respiratory protection would be required when exposures are above the PEL and controls are being established; when controls are infeasible; and when occasional entry into hazardous atmosphere is necessary to perform maintenance, investigation, or emergency cleanup. In the proposed rule, MSHA stated its intent to give operators 6 months from the date of publication of the final rule in the **Federal Register**to comply with the new permissible exposure limits through the use of feasible engineering or administrative controls. In the interim, mine operators would be able to use any combination of controls and respiratory protection.

The proposed rule includes the following three considerations regarding feasibility of engineering or administrative controls: (1) Nature and extent of the overexposure; (2) the demonstrated effectiveness of available technology; and (3) whether committed resources would be wholly out of proportion to the expected results.

Some commenters suggested that the Agency adopt a more performance-oriented approach for compliance with PELS. Some operators stated that the cost of engineering controls would be prohibitive; and, even if additional ventilation entries or shafts could be developed in an existing underground mine, the cost potentially would exceed several million dollars for each fan installation. Also, one commenter suggested that retrofitting would not be cost effective and may not achieve desired results. Some other commenters stated that the decision to install engineering controls or respirators should be left to the operator.

Some commenters suggested that engineering controls may provide adequate protection only if they are designed, operated and maintained properly. They stated that a respiratory protection program that is carefully implemented and supervised can be very effective in providing employees with protection against overexposures.

Some commenters supported MSHA's proposed language but suggested additional circumstances where they believed respiratory protection would be appropriate, such as for complying with short-term exposure limits, during maintenance and repair activities, and during intermittent exposures. One commenter suggested that MSHA define feasible engineering controls as those which are economically and technically feasible and capable of providing effective, dependable, and sustained control. This commenter also stated that MSHA should not limit use of respirators to the examples in the proposal because there may be many additional instances when respiratory protection alone, or in combination with engineering controls and work practices, offer the best means of controlling exposures.

One commenter recommended that engineering controls be required in circumstances where miners are exposed to concentrations at or above the PEL. Finally, one commenter expressed a desire for MSHA to extend the deadline for compliance from 6 months to 3 to 5 years.

B. Carcinogens

The proposal includes known or suspected carcinogens adopted by the American Conference of Governmental Industrial Hygienists (ACGIH) in the 1989–90 "TLV Booklet," the regulatory actions of OSHA and other Federal agencies, as well as the "Fourth Annual Report on Carcinogens" prepared by the U.S. Public Health Service and issued by the Secretary of Health and Human Services. In the proposal, MSHA uses a tiered approach by grouping the carcinogenic chemicals and processes according to their strength, toxicity, sources, and potential routes of exposure.

Class 1 carcinogens are those which are brought onto mining property that have no assigned safe limit by any recognized agency, with one exception: Bis(chloromethyl) ether, which is often a by-product of chloromethyl methyl ether. Therefore, both chemicals would be regulated as class 1 carcinogens. MSHA would require that class 1 carcinogens be controlled so that the miner would have virtually no contact with the chemical. Because these chemicals are likely to be used in procedures and operations other than those encountered in general industry, MSHA proposes to require prior approval for their use, rather than identifying specific control technology. MSHA's intent is to protect miners while allowing operators flexibility in handling and using these types of chemicals. Operators requesting Agency approval would have to specify within their procedures the use of engineering controls, personal protection, and administrative measures that ensure virtually no contact with the chemicals. Administrative measures, which are distinguishable from administrative controls, are management efforts used to define work practices and to limit possible contamination. Each class 1 carcinogen present in a concentration of greater than 0.1 percent by weight or volume would be subject to approved restricted-use procedures.

Class 2 and class 3 carcinogens are those brought onto mining property and which have been assigned PELs. Exposures to these chemicals are controlled by their assigned PELs and additional requirements specified for each class. The other provisions of the proposal, such as exposure monitoring and respiratory protection would be applicable also. Engineering controls and restricted areas would be required for use of these chemicals. Because an exposure limit can be used to determine the effectiveness of engineering controls for airborne exposure, MSHA would not require prior approval for use of these chemicals the proposal specifies the types of systems in which Class 2 carcinogens can be used.

Class 3 carcinogens would be regulated to the PEL without specifying the technology required for their handling. If an overexposure is found, a restricted area would have to be established and additional work practices to control exposure would have to be implemented. Operators would also have to fulfill requirements for labeling, monitoring and training, which are not dependent upon establishment of a restricted area.

Class 4 carcinogens are those that are mining processes, chemical processes, or chemicals for which the contribution of individual components toward the carcinogenic activity are not fully understood. The nature of the processes, as well as the type of exposure, requires different work practices than for the other classes of carcinogens.

Some commenters suggested that separate precautions should not be required for chemicals that potentially cause cancer as opposed to chemicals that pose other potentially life-threatening risks. These commenters also recommended that MSHA promulgate a separate standard for each carcinogen rather than use the generic approach. Some commenters suggested that MSHA should not be regulating carcinogens at levels less than those to which the general population is

exposed. Also, some commenters suggested that a restricted area is not necessary unless the PEL either is, or is likely to be, exceeded.

Some commenters stated that MSHA did not explain in its proposal why class 2 chemicals have prescribed methods of handling and class 3 chemicals do not. Some commenters recommended that instead of just listing carcinogens to be regulated in its proposal, that MSHA should promulgate scientific procedures for classifying carcinogens, and adding and removing substances from the class. A few commenters suggested that the chemicals listed in class 1 and most substances listed in classes 2 and 3 are likely to be encountered only in laboratory reagent use in the typical mining environment, if encountered at all. These commenters also stated that of the carcinogens listed in classes 2 and 3, only benzene, 4,4-methylene bis(2-chloroaniline), 4,4'-methylene dianiline, ethylene oxide, hydrazine and acetonitrile are found in the general mining environment.

In addition, some commenters believe that MSHA did not rely upon the latest available data, nor did it discuss the scientific data supporting the rulemaking. One commenter stated that MSHA should promulgate procedures for carcinogens based upon a risk assessment entailing hazard identification, dose-response assessment, exposure assessment, and risk characterization. This commenter also recommends that MSHA use the information in the study conducted by the National Institute for Occupational Safety and Health (NIOSH) regarding its National Occupational Health Survey in Mining (NOHSM) which identifies chemicals present on mine properties. From the NOHSM data, this commenter believes that MSHA could have NIOSH identify which of the recommended carcinogens in proposed Tables C–1 through C–5 are found on mining property, the quantities being used, and the conditions of use. A few commenters objected to MSHA's usage of carcinogens listed in the National Toxicology Program's "Fourth Annual Report on Carcinogens" as a source for regulating carcinogens in the mining industry because they believe that the Annual Report does not include adequate risk assessment data.

Some commenters agreed with MSHA's tiered system of controls for established carcinogens. However, they objected to the direct application of these controls to the typical laboratory environment because significant differences exist between the laboratory and the rest of the mining environment. These differences include laboratory hoods, restricted access, more controlled and measured usage. These commenters recommend that the Agency establish a separate category of controls to be developed for small scale, laboratory reagent use. One commenter objected to MSHA's restriction of the use of administrative controls or worker rotation when using any carcinogens, and restrictions on food, smoking products and cosmetics. This commenter stated that the restriction would apply to the entire mine, when the Agency's intent is that it would be applicable only to restricted areas for classes 2 through 4. This same commenter objected to the requirement of protective clothing and equipment for classes 2 through 4 because the possibility of skin contact would not raise health concerns where the chemical is not absorbed through the skin or does not cause local health effects.

Commenters recommended that the Agency consider the effects of the use of tobacco products by miners, since studies indicate their association with cancer and impaired health. A few other commenters suggested that coal tar pitch volatiles, under class 4 carcinogens, are found in diesel exhaust and suggested tht MSHA include an exception for diesel exhaust, otherwise it would be regulated under this standard. By definition, "coal tar pitch" is separate from petroleum-based derivatives such as diesel exhaust, and it is not the Agency's intent to regulate exposure to diesel exhaust particulates as coal tar pitch volatiles.

One commenter stated that the approval procedures for use of class 1 chemicals would create long delays and the standard does not include a definition of "new evidence" for purposes of appeal procedures of an initial decision by the Agency on the operator's procedures.

For class 3 carcinogens, MSHA requested comments on whether the standard should include a requirement for special clothing and daily showers when individuals are exposed to carcinogens with a skin notation in the PEL table at levels above the PEL. MSHA also requested comments on whether such clothing and showers are appropriate for exposure to any carcinogen above the PEL to reduce potential exposures through ingestation and resuspension of contaminants. One commenter stated that whether MSHA requires these provisions is dependent upon the specific chemical as opposed to the entire class.

Some commenters stated that the proposal for class 3 carcinogens would restrict the usage of paint in the crushed stone industry, since paint could contain lead chromate and zinc chromate which are listed on Table C–3. It is not the Agency's intent to regulate paint as a class 3 carcinogen. MSHA believes that the 5 percent threshold for lead and zinc chromate for inclusion into class 3 would prevent paint from falling into this category.

Some commenters objected to the proposed monitoring requirements for carcinogens because they believe that monitoring expertise and resources necessary to reliably quantify exposures are not present in the mining industry. These commenters requested that MSHA provide all necessary monitoring under this section, assess the monitoring and analytical methods, and evaluate the reliability and feasibility of measuring exposures at the proposed PELs.

C. Asbestos Construction Work

The proposed rule defines "asbestos construction work" as demolition or salvage of structures where asbestos is present; installation, removal, or encapsulation of asbestos and materials containing greater than 0.1 percent asbestos; spill and emergency cleanup of asbestos and material containing greater than 0.1 percent asbestos; transportation, disposal, storage or containment of asbestos or materials containing greater than 0.1 percent asbestos on the site or location at which construction activities are performed.

Operators would have to designate a person responsible for the asbestos construction work who would have the authority to take prompt corrective action to eliminate hazards. The proposal would require that the designated person be comprehensively trained on the hazards of asbestos and asbestos construction work, such as a course conducted by an Environmental Protection Agency (EPA) Asbestos Training Center, be a certified industrial hygienist, or be certified for asbestos construction work by a state program.

The proposal would require that areas where asbestos construction work is being conducted be restricted to essential personnel, and posted with signs stating the nature of the hazard and the procedures to be followed when entering and leaving the restricted area. The proposal would prohibit food, beverages, smoking products, tobacco and other chewing products, and application of cosmetics in the restricted area. Special protective clothing would have to be provided by operators to persons entering the restricted area. All clothing would have to be deposited at

the point of exit and disposed of or decontaminated after the last exit of the day. Miners would have to shower immediately after each exit.

Whenever feasible, operators must establish negative-pressure enclosures before beginning removal, demolition, or renovation operations. Glove bags and wet methods could be substituted for negative-pressure enclosures for small-scale, short-duration activities involving removal of asbestos-containing insulation on pipes, removal of entire and intact asbestos-insulated pipes or structures, and replacement of electrical conduits through or near asbestos-containing material.

Daily monitoring would be required if the PEL is or could be exceeded. Written decontamination, disposal, and emergency procedures would have to be developed and operational. Persons entering the restricted area would have to be trained initially and annually thereafter.

Operators would have to give MSHA at least 20 days notice, which could be oral, prior to commencement of asbestos construction work involving at least 80 linear meters of asbestos or asbestos-containing materials. These provisions parallel with mine operators' reporting requirements to EPA under the National Emissions Standard for Hazardous Air Pollutants, 40 CFR part 61, subpart M.

Finally, the proposal states that containers of asbestos and materials containing greater than 0.1 percent asbestos would have to be stored in a manner that prevents contamination of restricted and nonrestricted areas; and equipment, materials, or other contaminated items from the restricted area would not be permitted to contaminate nonrestricted areas.

A number of commenters strongly objected to the proposed provisions because they believed they would be inconsistent with those adopted by the Occupational Safety and Health Administration (OSHA). MSHA primarily based its proposal on the OSHA procedures for asbestos construction work. Some operators suggested that the Agency use the EPA's definition of 1.0 percent asbestos for purposes of asbestos construction work rather than MSHA's proposed definition of 0.1 percent asbestos. Some other commenters stated for the record that MSHA should not include any non-asbestiform minerals within its asbestos standards.

Some commenters stated that operators would not be able to sample to the limit of 0.1 percent asbestos in bulk samples where asbestos may occur such as in insulation and brake shoe linings. MSHA does not intend that the provisions on asbestos construction would apply to the use or handling of brake shoes in mines. These commenters suggested that the Agency specify a measurement method.

D. Medical Surveillance and Transfer Establishment of Program

The proposed rule would require operators to establish a written medical surveillance program that would offer miners, who are or would be working with substances or processes listed in Table C–5, the option to be examined by a licensed physician.

One commenter supported the Agency's concept of medical surveillance for miners who are significantly exposed to hazardous materials that can result in adverse health effects. However, this commenter suggested that a grouping by disease endpoint, such as cancer related to occupational carcinogens, or by chemicals being structurally related will not be as effective as a generic standard based on assessment of target organs. In the opinion of some commenters, the cancers related to exposure to any of the listed carcinogens on Table C–5 would not be affected by medical screening. One commenter stated that bladder cancer can result from exposure to many of the listed carcinogens, and there are some studies which indicate that screening for bladder cancer may detect the disease when it is surgically curable. Lung cancer, on the other hand, may not be a suitable candidate for screening given present tests.

Some commenters recommended that MSHA promulgate specific rules for medical surveillance since the criteria for inclusion of such a requirement should be triggered by the specific substance that has been or will be used in the workplace. A number of commenters also stated that the term "working with" is vague and needs clarification, since it is possible for miners to be working with a chemical to which they have no direct contact.

One commenter requester that MSHA define "exposed" to specify the type and degree of contact with each listed carcinogen triggering medical surveillance; at a minimum, the final rule should specify that exposure to a particular chemical must be above the PEL for that substance; and the standard should clarify that only occupational exposure is of concern to the Agency.

Medical Examinations

The medical examination would have to be conducted at a reasonable time and place and all costs of the medical examination would be paid by the mine operator. The medical examination would have to be made available to a miner: (1) Before the miner could be assigned to work with a carcinogen on Table C–5, (2) once every 12 months, and (3) whenever the miner is exposed to these carcinogens as a result of an emergency. The operator would have to direct the examining physician to transmit examination results to the operator. The operator would have to provide the examining physician with relevant job information.

MSHA requested specific comments on the appropriate criteria to be used when offering medical examinations to miners; and on whether medical examinations and transfer under this section should be at each miner's option, as in this proposal, or mandatory.

Some commenters recommended that the Agency replace the term "medical examination" with "medical evaluation" since an evaluation is broader in scope and would allow a physician to express professional judgment. Some commenters also suggested that the entire examination need not be performed by a licensed physician, rather it could be performed under the licensed physician's direction.

One commenter suggests that medical examinations under the Federal Mine Safety and Health Act of 1977 (Mine Act) are not provided for where a miner's health has not been adversely affected by exposure to a specific chemical. A number of commenters believe that requiring an examination after a single exposure to a listed carcinogen will not further that goal, because most cancers develop after long latency periods and only a few are amenable to early detection and medical intervention. However, some commenters stated that this provision would be appropriate for some carcinogens as opposed to others. Some latency periods for carcinogens are in excess of 12 months. Therefore, in an emergency, the need for an immediate medical examination may not be warranted.

Some commenters suggested that the frequency of examinations should be keyed to the specific substance used, the exposure levels and duration, sex, age and physiological condition of the miner. They stated that the type of exposure, amount of exposure and route of entry/target organ vary depending upon the substance and the site.

Recordkeeping

Under the proposed rule, all medical records would have to be retained by the operator for a period of the miner's employment plus 30 years. This is consistent with OSHA's recordkeeping

retention period for carcinogens. Miners, their designated representatives, and authorized representives of the Secretary of Labor and the Secretary of Health and Human Services would have access to miners' medical records. In addition, operators would have to give miners copies of their medical records upon termination of employment.

The proposed rule also includes a provision that would require that whenever an operator ceases to do business and there is a successor operator, the successor operator would have to continue to retain the medical records for the required period of this section. Where there is no successor operator, the operator would have to notify affected miners of their rights of access to records within 3 months prior to destroying such records.

Some commenters objected to the record retention period as being too burdensome. Other commenters suggested that requests for access to medical records should be in writing, and that the standard should provide for an operator to give access to miners' medical records to an operator's designated physician. Also, some commenters believe that a final rule should require operators to give miners copies of their records upon request rather than that they be automatically provided with a copy.

Regarding the provisions on recordkeeping and successor operators, some commenters stated that "all affected miners" should include only those who are actively employed at the time the operator ceases to do business, when there is no successor. These commenters objected to any application of the standard to former miners, stating that they are not "miners" under the Mine Act.

Medical Transfer

Under the proposal, the operator would have to notify MSHA in writing of any miner requesting to transfer as a result of the physician's medical report indicating that the miner has developed cancer or any impairment of health or functional capacity due to exposure to a carcinogen on Table C–5. The notice would have to be sent to MSHA within 15 calendar days of receipt of the miner's request for transfer and include the miner's occupation, a new assignment, and the date of transfer. The transfer would have to take place before the 21st calendar day following receipt by the operator of the miner's request. The proposal would allow for a miner and an operator to agree, in writing, for the miner to be transferred to a different mine.

The proposed rule would also provide compensation protection for transferred miners. The miner would retain at least the previous hourly rate of pay and subsequently would receive actual increases applicable to the assigned work classification.

Some commenters requested that MSHA delete the proposed provisions on medical transfer and promulgate such provisions in separate rulemaking. These commenters believe that a medical transfer standard must specify each type of cancer and degree of health impairment or loss of functional capacity deemed directly attributable to each carcinogen. Also they requested that any final standard should provide exact guidance on how physicians should account for concomitant exposure to other carcinogens or agents in a miner that may induce the same precursor or endpoint disease as the carcinogen of primary concern.

E. Respiratory Protection Program

The proposed standard would require all operators to establish a respiratory protection program whenever an exposure based MSHA standard requires respiratory protection. These requirements would be included for coal operators in revised §§ 70.302, 71.302 and 90.302. The proposed rule retains the principal requirements of the existing standard for metal and nonmetal mines by including the relevant portions of the American National Standards Institute (ANSI) Z88.2–1980. The proposal contains requirements for selection, fit testing, use, maintenance and training. Although beneficial, these provisions would not be applicable to voluntary use of respiratory protection. MSHA is aware that NIOSH and OSHA are each developing rules that address respirator approval and use. MSHA is closely following these rulemakings to ensure that the Agency's final rule for mining will be consistent with the respiratory protection standards developed by the these other Federal agencies.

Under the proposal, operators would have to use respirators approved under 30 CFR part 11 and maintain them in approved condition. Respirators would have to be selected according to the criteria in the three tables included in the standard, the manufacturer's limitations on the respirator, and the characteristics of the work environment, which includes the exposure levels, the period of time the respiratory protection will be worn, and the work activities of the employees. The proposal would require operators to make certain that respirators are cleaned and sanitized prior to use by another person.

Respirators would have to be inspected prior to use and after cleaning, sanitizing, and maintenance, including repair work. Respirators for emergency use would have to be inspected monthly with a record kept of the last inspection.

Respirators would have to be stored in a manner that protects them from damage or contamination. Emergency-use respirators must be accessible to persons who may need to use them.

Operators would have to conduct either qualitative or quantitative fit tests for respirators with tight-fitting facepieces. Accurate records of fit testing would have to be recorded and kept for 1 year from the latest fit test. For respirators with a tight-fitting facepiece, negative- and positive-pressure sealing test or an equivalent qualitative sealing test would have to be done prior to each use. Use of respirators with tight-fitting facepieces would be prohibited when facial hair comes between the sealing surface of the resirator facepiece and the face.

The proposed rule would also require initial training, followed by refresher training at least every 12 months, for respirator wearers, supervisors, and persons issuing or maintaining respirators. Oil-lubricated compressors would have to be equipped with a carbon-monoxide or higher temperature alarm. Supplied air or oxygen used for respiration would have to meet the requirements of 30 CFR part 11. Finally, the proposal would prohibit compressed oxygen from being used in atmosphere-supplying respirators or in open-circuit, self-contained breathing apparatus that have previously used compressed air.

Some commenters recommended that MSHA include within the standard that this section is inapplicable to 30 CFR part 49 and self-rescuers covered by §§ 57.15030 and 75.1714. Commenters generally agreed with the proposal on respiratory protection programs in that such programs should outline proper selection, fit testing, use, maintenance of respirators, and training of respirator wearers. However, some commenters stated that the proposal is too restrictive regarding cleaning of respirators which would have to be conducted by one other than the respirator wearer. MSHA's intent was to allow maximum flexibility in cleaning and sanitizing prior to someone else's use of the respirator. MSHA intends to clarify the provision in the final rule.

Several commenters suggested that Table D–1 fails to quantitatively identify "percent of oxygen" that presents particular hazards, and thus, has no meaning.

A number of commenters objected to MSHA's assigned protection factors on Tables D–2 and D–3 and requested that the Agency provide greater rationale for the proposed numbers. Some commenters recommended the addition of a footnote on Table D–3 for supplied-air respirators (SAR), continuous flow hoods or helmets, since the abrasive blasting process can result in excursions of contaminants within a respiratory protection devices' capabilities. However, these commenters believe that proposed protection factor of 25 for this limited purpose would be too stringent and could be accommodated by a reasonable exception.

Several commenters agreed with MSHA that fit testing should be conducted for all tight-fitting facepiece respirators, but disagreed with the Agency that assigned protection factors should be limited to 10 for positive pressure tight-fitting facepiece respirators unless quantitative fit testing has been performed. The pupose of a positive pressure respirator is to ensure that there is an adequate fit of the facepiece, which can be accomplished by fit testing the same model facepiece in the negative pressure mode as an air-purifying respirator.

Some commenters suggested that MSHA amend provisions regarding fit testing and fit testing records to reference only negative pressure respirators.

Some commenters also suggested that the term "disposable dust/mist" respirator is unclear and, therefore, should not be assigned a protection factor. They stated that achieving a fit factor of 100 by a validated and recognized qualitative fit test or by a quantitative fit test should qualify any respirator for an assigned protection factor of ten. Several commenters stated that the fit testing requirements should not be applicable to disposable respirators, whereas other commenters recommended that MSHA allow use of disposable respirators for other than dust and mist.

A number of commenters recommended that since the ANSI standard is so widely used, MSHA should use it as a basis for the final rule, especially the ANSI protection factors.

Several commenters suggested that MSHA delete the incorporation by reference to 30 CFR part 11 and define "certified" respirators. A few other commenters stated that MSHA should recommend that NIOSH, as part of its proposed respirator certification standard, 42 CFR part 84, establish performance criteria for newly certified respirators that adequately protect workers at exposure levels consistent with assigned protection factors. Some commenters objected to MSHA's definition of atomospheres that are immediately dangerous to life and health (IDLH), as well as MSHA's intent to require the use of self-contained breathing apparatus (SCBA) in IDLH atmospheres.

Regarding recordkeeping requirements of the proposal, some commenters suggested that MSHA delete the requirement "protection factor" from the record and substitute it with "fit factor," since a protection factor describes the limitations of the respirator rather than a measure for each fit.

Some commenters want MSHA to delete paragraph (h) which would require that a negative- and positive-pressure sealing test or an equivalent qualitative sealing test be done prior to each use. These commenters suggest that a specification standard which would be applicable to vast differences in type, design and construction of modern respirators is not reasonable.

Some commenters also suggested deletion of paragraph (j) on respirator training because they believed that such training would be covered under 30 CFR part 48.

F. Medical Surveillance Programs for Respirator Wearers

The proposed rule would require that mine operators establish a written medical surveillance program under which a miner could not be assigned to wear respiratory protection until it has been determined by a licensed physician that the miner is physically able to wear the respirator while performing the work. Medical examinations and other parts of this section would apply only when respiratory protection is required by MSHA.

The operator would have to comply with any medical or physical limitations related to respirator use as determined by the physician. This would be consistent with current ANSI Z88.2–1969. All costs of medical examinations, including the employee's time, would have to be paid by the mine operator. The proposal specifies the types of information that the operator would have to provide to the examining physician. Miners would have to be examined by a licensed physician prior to respirator use, at any time the wearer experiences difficulty breathing while being fitted or while using the respirator, and at intervals designated according to a frequency table based on the age of the wearer and working conditions.

Under the proposal, medical records from the licensed physician would have to be kept by operators for a period of at least 5 years.

Miners who have been determined to be unable to wear a respirator, based upon the medical examination required by this section, would have to be transferred to an area of the mine where respiratory protection is not required. The operator would have to notify MSHA in writing within 15 calendar days from receipt of the licensed physician's report indicating that the miner cannot do work where respirators are required. The notice would have to include the miner's occupation, new assignment, and the date of transfer, which must take place on or before the 21st day following receipt by the operator of the licensed physician's report. The proposal would allow the operator and miner to agree that the miner could be transferred to a job at a different mine. The proposal also included compensation protection for transferred miners.

Some commenters agreed with MSHA's intent to promulgate a standard requiring operators to have miners examined for fitness to wear a respirator. However, a few commenters objected to the Agency's inclusion of a nonmandatory appendix to assist physicians who may not be familiar with this type of examination. These commenters objected specifically to the recommendation of spirometry as a part of the examination with the accompanying guidance for interpreting spirometric results.

Some commenters objected to the inclusion of transfer provisions in the standard, because they believe that they could lead to potential abuses, and are not directed at preventing occupationally-related disease. Some other commenters recommended that the standard include a provision stating that any miner transferred under this section can be transferred back to his or her original position once respiratory protection requirements no longer exist, or the miner is determined to be medically able to wear a respirator.

MSHA particularly requests further comment on these issues in the proposed rule.

Dated: September 5, 1990.

William J. Tattersall,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 90–21250 Filed 9–10–90; 8:45 am]

BILLING CODE 4510–43–M.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 25

[DA 90-1183; (RM-7400)]

Establishment of a Satellite and Terrestrial CD Quality Broadcasting Service

AGENCY: Federal Communications Commission.

ACTION: Proposal rule; extension of reply comment period.

SUMMARY: At the request of the Aircraft & Flight Test Radio Coordinating Council (AFTRCC) the Commission is extending the reply comment period in this proceeding from September 4, 1990, to September 14, 1990. This extension is being made so that AFTRCC can respond to comments made by the American Mobile Satellite Corporation and the Communications Satellite Corporation regarding the sharing of aeronautical telemetry frequencies with future mobile satellite services.

DATES: Reply comments are due on or before September 14, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Damon C. Ladson, Frequency Allocations Branch, Office of Engineering and Technology, (202) 653-8114.

SUPPLEMENTARY INFORMATION:

Order Granting Extension of Time

In the matter of Amendment of the Commission's Rules to Establish a Satellite and Terrestrial CD Quality Broadcasting Service.

Adopted: September 4, 1990.
Released: September 5, 1990.

By the Office of Engineering and Technology:

1. The Aircraft Flight Test Radio Coordinating Council (AFTRCC) has requested an extension of the reply comment period in the above proceeding to September 14, 1990. Reply comments are currently due September 4, 1990. See Order Granting Extension of Time (Order), DA 90-943, released July 13, 1990.

2. AFTRCC represents entities engaged in the design and manufacture of aircraft, space vehicles, and their major components. In this capacity, AFTRCC serves as the FCC-recognized advisory committee for the coordination of flight test telemetry frequencies in the 1435-1530 MHz band. Satellite CD Radio, Inc. has requested that a substantial portion of this band be allocated for digital audio radio services. AFTRCC states that the American Mobile Satellite Corporation (AMSC) and the Communications Satellite Corporation (COMSAT) filed comments on August 20, 1990, regarding the possibility of future mobile satellite services sharing these frequencies with flight test telemetry operations. AFTRCC wishes to reply to the comments of AMSC and COMSAT. However, in order to submit a meaningful response to those comments, AFTRCC states that it will require the additional time requested.

3. We believe that additional time for filing reply comments is appropriate in light of the comments filed by AMSC and COMSAT. In any event, we have stated in the recent Notice of Inquiry (Notice) regarding new digital audio radio services that relevant comments filed in RM-7400 would be considered in that proceeding. See Notice of Inquiry, GEN Docket 90-357, 55 FR 34940 (August 27, 1990) at footnote 2. As the comments in that proceeding are not due until October 14, 1990, the brief extension requested by AFTRCC in this proceeding would be consistent with the comment period in the digital audio radio proceeding. Accordingly, pursuant to authority found in section 4(i), 302, and 303 of the Communications Act of 1934, as amended, it is ordered that the reply comment period in this proceeding is extended to September 14, 1990.

Federal Communications Commission.
Thomas P. Stanley,
Chief Engineer

[FR Doc. 90-21219 Filed 9-10-90; 8:45 am]
BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1061

[Ex Parte No. MC-194]

Prohibition Against Smoking on Interstate Motor Passenger Carrier Vehicles; Petitions for Rulemaking From American Bus Association, United Bus Owners of America, and Action on Smoking and Health

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The American Bus Association (ABA) and the United Bus Owners of America (UBOA), jointly, and Action on Smoking and Health (ASH), separately, filed petitions requesting that the Commission institute a rulemaking to amend 49 CFR part 1061, to prohibit smoking on interstate buses. Although the two petitions are similar in most respects, the major difference in the ABA/UBOA petition and the ASH petition is that ASH seeks to extend the prohibition to smoking on charter buses as well. Because of the serious public health issue involved, the Commission is proposing to adopt the more comprehensive approach of ASH, as set forth below. The Commission, nevertheless, invites comments on both proposals, including whether the smoking ban should be extended to charter operations. The petitions may be inspected at the Public Docket room (room 1227) of the Commission in Washington, DC. Any interested person may file a comment in this proceeding.

DATES: Comments are due on or before October 11, 1990.

ADDRESSES: Send an original and 10 copies of comments referring to Ex Parte No. MC-194 to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Marion E. Guyton, (202) 275-7965

or

Richard B. Felder, (202) 275-7691.

[TDD for hearing impaired: (202) 275-1721.]

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

Environmental and Energy Considerations

We preliminarily conclude that this proposal will have a beneficial impact on the public health of bus patrons and bus drivers. However, this action will not significantly affect either the overall quality of the human environment or the conservation of energy resources.

Regulatory Flexibility Analysis

This Commission certifies that these rules will not have significant economic impact on a substantial number of small entities.

List of Subjects in 49 CFR Part 1061

Buses, Motor carriers, Smoking.

Decided: September 4, 1990.

By the Commission, Chairman Philbin, Vice Chairman Phillips, Commissioners Simmons, Lamboley, and Emmett.

Sidney L. Strickland, Jr.,

Secretary.

For the reasons set forth in the preamble, title 49, chapter X, part 1061 of the Code of Federal Regulations is proposed to be amended as follows:

PART 1061—[REVISED]

1. Part 1061 is proposed to be revised to read as follows:

PART 1061—LIMITATION OF SMOKING ON INTERSTATE PASSENGER CARRIER VEHICLES

Authority: 49 U.S.C. 10101, 10102, 10321, 10922, and 11101, and 5 U.S.C. 553.

§ 1061.1 Prohibition against smoking on interstate passenger-carrying motor vehicles.

(a) All motor common carriers of passengers subject to subchapter II of chapter 105 of title 49, United States Code, shall prohibit smoking (including the carrying of lit cigars, cigarettes, and pipes) on vehicles transporting passengers in scheduled or special services in interstate commerce.

(b) Each carrier shall take such action as is necessary to ensure that smoking by passengers, drivers, and other employees is not permitted in violation of this section. This shall include making appropriate announcements to passengers, the posting of clearly visible signs in all buses stating "NO SMOKING" or "SMOKING PROHIBITED" in letters no less than 2 inches high and the international no-smoking symbol at least 4 inches high, and the posting of appropriate signs in bus terminals, waiting rooms, and wherever the carrier sells bus tickets.

(c) The provisions of paragraph (a) of this section shall apply to charter operations as defined in 49 CFR 1054.2.

[FR Doc. 90–21270 Filed 9–10–90; 8:45 am]

BILLING CODE 7035–01–M

Notices

Federal Register
Vol. 55, No. 176
Tuesday, September 11, 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

Packers and Stockyards Administration

Amendment to Certification of Central Filing System—Oklahoma

The statewide central filing system of Oklahoma has been previously certified, pursuant to section 1324 of the Food Security Act of 1985, on the basis of information submitted by Hannah D. Atkins, Secretary of State, for specified farm products produced in that state (52 FR 49056, December 29, 1987; 54 FR 52838, December 22, 1989; 55 FR 28791, July 13, 1990).

The certification is hereby amended on the basis of information submitted by Hannah D. Atkins, Secretary of State, to include the following products produced in that State:

Donkeys
Mules
Llamas
Grass roots

This is issued pursuant to authority delegated by the Secretary of Agriculture.

Authority: Sec. 1324(c)(2), Pub. L. 99-198, 99 Stat. 1535, 7 U.S.C. 1631(c)(2); 7 CFR 2.17(e)(3), 2.56(a)(3), 51 FR 22795.

Dated: September 5, 1990.

Virgil M. Rosendale,

Administrator, Packers and Stockyards Administration.

[FR Doc. 90-21259 Filed 9-10-90; 8:45 am]

BILLING CODE 3410-KD-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 485]

Resolution and Order Approving the Request of the Quad-City Foreign-Trade Zone, Inc., For Temporary Suspension of Restriction—Refrigeration Compressors—Foreign-Trade Subzones 133A, 133B and 133C at Maytag Corporation Plants, Galesburg and Herrin, Illinois, and Newton, IA

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

Resolution and Order

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

The Board, having considered the matter, hereby orders:

After consideration of the request of the Quad-City Foreign-Trade Zone, Inc., grantee of Foreign-Trade Zone 133, on behalf of the Maytag Corporation, filed with the Foreign-Trade Zones Board (the Board) on December 28, 1989, requesting temporary suspension of the restriction in Board Order 448 (54 FR 47246, 11/13/89) that requires Maytag to elect privileged foreign status on refrigeration compressors admitted to Subzones 133A, B and C at Maytag plants in Galesburg and Herrin, Illinois, and Newton, Iowa, the Board finding that the reason for the restriction does not presently exist and that a suspension of the restriction until December 31, 1993, would be in the public interest, approves the request for that time period.

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

Signed at Washington, DC., this 31st day of August 1990.

Eric I. Garfinkel,

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

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 90-21244 Filed 9-10-90; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-570-803]

Postponement of Preliminary Antidumping Duty Determinations; Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China (PRC)

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: This notice informs the public that we have received a request from the petitioner in these investigations to postpone the preliminary determinations, 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 determinations as to whether sales of heavy forged hand tools (HFHTs), finished or unfinished, with or without handles, from the PRC have been made at less than fair value until not later than October 31, 1990.

EFFECTIVE DATE: September 10, 1990.

FOR FURTHER INFORMATION CONTACT: Brad Hess at (202) 377-3773, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, Washington, DC 20230.

SUPPLEMENTARY INFORMATION: On August 15, 1990, counsel for the petitioner requested that the Department postpone the preliminary determinations 50 days, *i.e.*, until not later than 210 days after the date of receipt of the petition, in accordance with section 733(c)(1)(A) of the Act. Accordingly, we are postponing the date of the preliminary determinations until not later than October 31, 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 21, 1990.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-21243 Filed 9-10-90; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Listing Endangered and Threatened Species: Petitions To List Snake River Spring, Summer, and Fall Chinook Salmon, and Lower Columbia River Coho Salmon

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

ACTION: Notice of receipt of petitions and request for information.

SUMMARY: NMFS has received petitions to add spring, summer, and fall chinook salmon (*Oncorhynchus tshawytscha*) in the Snake River, and coho salmon (Oncorhynchus kisutch) in the lower Columbia River to the U.S. List of Endangered and Threatened Wildlife. In accordance with section 4 of the Endangered Species Act of 1973 (ESA), the Assistant Administrator for Fisheries has determined that the petitions present substantial scientific information indicating that the listings may be warranted. As required by section 4(b)(3)(A) of the Act, NMFS will conduct status reviews of *O. tshawytscha* (spring, summer, and fall runs) in the Snake River and *O. kisutch* in the lower Columbia River to determine if the petitioned actions are warranted. To ensure that the review is comprehensive, NMFS is soliciting information and data concerning the status of these runs of *O. tshawytscha* and *O. kisutch* in the areas indicated.

DATES: Comments and information must be received by November 13, 1990.

ADDRESSES: Comments should be submitted to Merritt Tuttle, Chief, Environmental and Technical Services Division, NMFS, 911 NE 11th Avenue, Room 620, Portland, OR 97232.

FOR FURTHER INFORMATION CONTACT: Merritt Tuttle, Environmental and Technical Services Division, NMFS, Portland, OR 97232 (503/230–5401 or FTS/429–5401), or Patricia Montanio, Protected Species Management Division, NMFS, 1335 East-West Highway, Silver Spring, MD 20910 (301/427–2322).

SUPPLEMENTARY INFORMATION:

Background

Section 4 of the ESA contains provisions allowing interested persons to petition the Secretary of the Interior or the Secretary of Commerce to add a species to, or remove a species from, the List of Endangered and Threatened Wildlife (List). Section 4(b)(3)(A) ESA requires that, to the maximum extent practicable, within 90 days after receiving such a petition the Secretary determine whether the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted. NMFS interprets "substantial scientific or commercial information" to mean the amount of information that would lead a reasonable person to believe that the proposed measure may be warranted (50 CFR 424.14(b)).

Listing Factors and Basis for Determination

Under section 4(a)(1) of the ESA, a species can be determined to be endangered or threatened for any of the following reasons: (1) Present or threatened destruction, modification, or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms; or (5) other natural or manmade factors affecting its continued existence. Listing determinations are made solely on the best scientific and commerical data available after taking into account any efforts made by any State or foreign nation to protect the species.

Petitions Received

On June 7, 1990, the Secretary of Commerce received four petitions to list the Snake River races of spring, summer, and fall chinook salmon (*O. tshawytscha*) and lower Columbia River coho salmon (*O. kitsutch*) under the ESA from Oregon Trout; Oregon Natural Resources Council; Northwest Environmental Defense Center; Idaho Chapter, American Fisheries Society; Oregon Chapter, American Fisheries Society; and American Rivers. The Assistant Administrator for Fisheries has determined that the petitions present substantial scientific information indicating that the petitioned actions may be warranted. Under section 4 of the ESA, this determination requires taht a review of the status of these runs of *O. tshawytscha* and *O. kisutch* be conducted to determine if the petitioned listings are warranted.

Section 4 of the ESA requires that within 12 months of receipt of a substantial petition, the Secretary make one of the following findings: (1) The petitioned action is not warranted; (2) the petitioned action is warranted; or (3) the petitioned action is warranted, but pending listing proposals preclude immediate proposal of a regulation to implement the action. A notice of finding must be published in the **Federal Register** and in the case of (2) above, a proposed regulation to implement the action must be included.

Section 4(a)(3) of the ESA requires that critical habitat be designated concurrently with a determination that a species is endangered or threatened. However, unlike designating a species as endangered or threatened, economic impacts must be considered when designating critical habitat. An area may be excluded from the designation if it is determined that the benefits of an exclusion outweigh the benefits of including the area as critical habitat, and the exclusion will not result in the extinction of the species.

Biological Information Solicited

To ensure that the review is complete and is based on the best available scientific and commercial data, NMFS is soliciting information and comments concerning the status of *O. tshawytscha* in the Snake River and *O. kisutch* in the Lower Columbia River. There are several technical issues that need to be addressed in the course of the status review including: (1) Defining distinct population segments that qualify as species under the ESA; (2) determining the threshold for threatened and endangered status; (3) evaluating the role of artificial propagation; and (4) determining the causes of decline.

The NMFS reiterates that it seeks information from any interested party and requests that such data, information, and comments be accompanied by: (1) Supporting documentation, such as maps, bibliographic reference, or reprints of pertinent publications; and (2) the Party's name, address, and any association, institution, or business that the Party represents.

Dated: September 5, 1990.

Michael F. Tillman,

Deputy Assistant Administrator for Fisheries.

[FR Doc. 90–21221 Filed 9–10–90; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals; Issuance of Permit; Philadelphia Zoological Garden (P189A)

On May 31, 1990, notice was published in the **Federal Register** (55 FR 22057) that an application had been filed by the Philadelphia Zoological Gardens, 34th Street & Girard Avenue, Philadelphia, PA 19104, to obtain seven (7) captive born or beached/stranded harbor seals (*Phoca vitulina*) for public display purposes.

Notice is hereby given that on August 31, 1990, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (MMPA) (16 U.S.C. 1361–1407), the National Marine Fisheries Service

(NMFS) issued a Permit for the above taking, subject to certain conditions set forth therein.

Issuance of this Permit is based on a finding that the proposed taking is consistent with the purposes and policies of the MMPA. The NMFS has determined that the Philadelphia Zoological Garden offers an acceptable program for education or conservation purposes. The Zoo facilities are open to the public on a regularly scheduled basis and access is not limited or restricted other than by an admission fee.

The Permit and supporting documentation are available for review in the following offices:

By appointment: Permit Division, Office of Protected Resources, National Marine Fisheries Service, 1335 East West Highway, Suite 7324, Silver Spring, MD 20910 (tel: 301/427–2289); and

Director, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930.

Dated: August 3, 1990.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 90–21183 Filed 9–10–90; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals; Permit Modification; William Watkins

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Permit Modification: Modification No. 3 to Permit No. 573 issued to Dr. William Watkins (P70C).

Notice is hereby given that pursuant to the provisions of the Marine Mammal Protection Act (16 U.S.C. 1361–1407), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531–1544), and the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR parts 217–222), Scientific Research Permit No. 573 issued to Dr. William A. Watkins, Woods Hole Oceanographic Institution, Woods Hole, Massachusetts 02543, on November 21, 1986 (51 FR 43422), as modified on December 31, 1987 (53 FR 9348), and August 30, 1988 (53 FR 34139), is further modified as follows:.

Section A. is replaced by:

A. Number and Kind of Marine Mammals

1. Twenty-five (25) sperm whales (*Physeter catodon*) may be taken by harassment each year.
2. Five (5) of the animals authorized in A.1. may be tagged by high-frequency transponder/radio tags each year.

This modification became effective on August 29, 1990.

Documents submitted in connection with the above modification are available for review by appointment at the following offices:

Office of Protected Resources, National Marine Fisheries Service, 1335 East West Highway, Room 7324, Silver Spring, MD 20910 (301/427–2289);

Director, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930 (508/281–9200); and

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, FL 33702 (813/893–31341).

Dated: August 29, 1990.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 90–21184 Filed 9–10–90; 8:45 am]

BILLING CODE 3510–22–M

COMMISSION ON MINORITY BUSINESS DEVELOPMENT

[90–N–8]

Meeting and Hearing

AGENCY: Commission on Minority Business Development.

ACTION: Notice of meeting and public hearing.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting and public hearing of the Commission on Minority Business Development will be held on Thursday, September 20, 1990 and Friday, September 21, 1990 respectively in Los Angeles, California. Both meetings are open to the public.

The September 20th meeting will convene at 9 a.m. at the Old City Hall, Office of the Mayor, Mayor's Conference Room, 200 North Spring Street, L.A., CA.

The meeting agenda will include review of the minutes of the Commission's last meeting, consideration of old business and consideration of new business.

The September 21st public hearing will begin at 9 a.m. at the Old City Hall, Public Works Conference Room 305, 200 North Spring Street, L.A., CA.

The public hearing is for the purpose of receiving testimony from public and private sector decision-makers and entrepreneurs, professional experts, corporate leaders and representatives of key interest groups and organizations concerned about minority business development and participation in Federal programs and contracting opportunities.

The Commission was established by Public Law 100–656, for purposes of reviewing and assessing Federal programs intended to promote minority business and making recommendations to the President and the Congress for such changes in laws or regulations as may be necessary to further the growth and development of minority businesses.

FOR FURTHER INFORMATION CONTACT: Susan Gonzales, Anita Irick or Arlene Pinkney at (202) 523–0030, Commission on Minority Business Development, 730 Jackson Place, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION: Minutes of the meeting and hearing transcripts will be available for public inspection during regular working hours at 730 Jackson Place, NW., Washington, DC 20006 approximately 30 days following the meeting and hearing.

Dated: August 30, 1990.

André M. Carrington,

Executive Director.

[FR Doc. 90–21253 Filed 9–10–90; 8:45 am]

BILLING CODE 6820–PB–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products and Silk Blend and Other Vegetable Fiber Apparel Produced or Manufactured in the Philippines

September 5, 1990.

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

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

EFFECTIVE DATE: September 13, 1990.

FOR FURTHER INFORMATION CONTACT: Kim-Bang Nguyen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the

bulletin boards of each Customs port or call (202) 535–6735. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION:

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

The current Group II limit is being increased for carryforward and swing. The limits for Categories 369–S and 604 are being reduced to account for the swing being applied.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 54 FR 50797, published on December 11, 1989). Also see 54 FR 47546, published on November 15, 1989.

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

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 5, 1990.

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 9, 1989 by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in the Philippines and exported during the period which began on January 1, 1990 and extends through December 31, 1990.

Effective on September 13, the directive of November 9, 1989 is being amended to adjust the limits for the following categories, as provided in the current bilateral textile agreement between the Governments of the United States and the Philippines:

Category	Adjusted 12-mo limit [1]
levels in group I:	
369–2 [2]	242,379 kilograms.
604	442,031 kilograms.
Group II: 200, 201, 218–229, 300–326, 330, 332, 349, 350, 353, 354, 359, 360–363, 369–0 [3], 400, 410, 414, 432, 434–442, 444, 448, 459, 464–469, 600–603, 606–629, 630, 632, 644, 653, 654, 659–0 [4], 665–670 and 831–859, as a group.	95, 102, 115 square meter equivalent.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1989.
[2] Category 369–S: only HTS number 6307.10.2005.
[3] Category 369–O: all HTS numbers except 6307.10.2005.
[4] Category 659–O: all HTS numbers except 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5060, 6505.90.6080, 6505.90.7060 and 6505.90.8060 (659–H).

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

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 90–21242 Filed 9–10–90; 8:45 am]

BILLING CODE 3510–DR–M

Announcement of Request for Bilateral Textile Consultations With the Government of Korea

September 5, 1990.

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

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on categories on which consultations have been requested, call (202) 377–3740.

SUPPLEMENTARY INFORMATION:

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

On August 17, 1990, the Government of the United States requested consultations with the Government of Korea regarding imports of babies' garments and clothing accessories in Category 239, produced or manufactured in Korea. This request was made on the basis of the current bilateral textile agreement between the Governments of the United States and Korea.

The United States reserves the right to control imports at the established level. The United States remains committed to finding a solution concerning this category. Should such a solution be reached in consultations with the Government of Korea, further notice will be published in the **Federal Register.**

Anyone wishing to comment or provide data or information regarding the treatment of Category 239 under the agreement with the Government of Korea, or in any aspect thereof, or to comment on domestic production or availability of products included in this category, is invited to submit 10 copies of such comments or information to Auggie D. Tantillo, Chairman, Committee for the implementation of Textile Agreements, U.S. Department of Commerce, Washington, DC 20230.

Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room H3100, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 54 FR 50797, published on December 11, 1989).

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 90–21241 Filed 9–10–90; 8:45 am]

BILLING CODE 3510–DR–M

COMMODITY FUTURES TRADING COMMISSION

Chicago Mercantile Exchange: Proposed Amendments Relating to Trading Unit and Delivery Specifications for the Random Length Lumber Futures Contract

AGENCY: Commodity Futures trading Commission.

ACTION: Notice of proposed contract rules changes.

SUMMARY: The Chicago Mercantile Exchange (CME or Exchange) has submitted proposed amendments to its random length lumber (lumber) futures contract. The proposed amendments would, among other things, increase the contract size, narrow the allowable variation in quantity and change the method for calculating freight charges, including changes to the specified origin point and a change in the method for determining the weights of shipments. The CME proposes to apply the subject proposed amendments to newly listed contract months, beginning with the July 1991 delivery month, or concurrently list delivery months under both the current and revised rules.

In accordance with section 5a(12) of the Commodity Exchange Act and acting pursuant to the authority delegated by Commission Regulation 140.96, the Director of the Division of Economic Analysis (Division) of the Commodity Futures Trading Commission (Commission) has determined, on behalf of the Commission, that the proposed amendments are of major economic significance. Accordingly, the Division, on behalf of the Commission, is requesting comment on these proposals.

DATES: Comments must be received on or before October 11, 1990.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Reference should be made to the proposed amendments to the CME random length lumber futures contract.

FOR MORE INFORMATION CONTACT: Richard A. Shilts, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, telephone (202) 254–7303.

SUPPLEMENTARY INFORMATION: The CME lumber futures contract currently specifies a par delivery unit of 150,000 board feet of random length lumber. However, under existing rules, a delivery unit can vary in quantity between 138,000 and 165,000 board feet. Existing provisions of the lumber futures contract require the seller making delivery to make shipping arrangements and prepay all freight charges from the seller's delivery facility to the destination specified by the buyer and then bill the buyer for the freight charges. In calculating the applicable freight charges, the seller must calculate the weight on the basis of 1,800 pounds per thousand board feet. The seller bills the buyer either (1) the lowest published freight rate in the rate class available to that shipping mill from Portland, Oregon for domestic mill originations (or Vancouver, British Columbia for Canadian mill originations) to the buyer's destination or (2) the actual freight rate paid by the seller, whichever is lower.[1]

The proposed amendments would raise the contract size to 160,000 from 150,000 board feet and narrow the allowable quantity variation from the current allowable range of 138,000 to 165,000 board feet to a new range of 155,000 to 165,000 board feet of lumber. The proposals also would standardize the method of calculation of freight charges that the seller charges the buyer. Specifically, under the proposal, the seller would be required to charge the buyer the lowest published freight rate, for a 51-foot, six-inch or a 52-foot, eight-inch flatcar originating from Prince George, British Columbia to the buyer's destination, regardless of the actual location of the originating Canadian or U.S. mill. In addition, the weight basis for computing per 100-lb rates when quoted on the basis of a railcar would be changed from 1,800 to 1,650 pounds per thousand board feet under the proposal. Finally, the CME proposes to delete certain rules and interpretive statements which are made obsolete by the proposed changes.

The CME notes that the subject amendments will simplify the relationship between futures and cash prices by eliminating or diminishing the sources of variability in the costs associated with futures delivery. Consequently, according to the Exchange, "* * * [t]he basis * * * should become more predictable, making the lumber contract a more efficient and effective hedging tool * * *."

In support of the proposal to change the freight billing formula, the Exchange states:

> Rather than face an array of possible freight costs, the buyer under the revised rules will have a knowable freight add-on to destination regardless of the origin of the delivery. This freight add-on will be equal to the lowest published Prince George, British Columbia rate for 51 foot-six inch and 52 foot-eight inch flatcars to the buyer's destination. These flatcars are the most abundant size flatcars in the major spruce-pine-fir producing region and are the most cost efficient size car for futures contract size shipments.
>
> The proposed freight add-on may broaden the breadth of the futures market by encouraging greater participation by U.S. mills. Canadian spruce-pine-fir and U.S. equivalent species—and with somewhat less frequency, hem-fir—often sell at the same delivery price. However, since U.S. mills have a comparative freight cost advantage relative to Canadian mills, the U.S. mills realize a higher net mill return on sales. The proposed freight billing for deliveries preserves this price/cost/net return relationship among mills. That is, all deliveries, regardless of mill origin, will be made at the same delivered price to a given destination: the futures price plus the lowest published Prince George rate to the destination. Since delivery does not affect mills' actual freight costs, relative net mill prices resulting from comparative freight cost advantages are not affected. Therefore, U.S. mills, which are required by the current contract to bill the buyer at a lower freight rate than that billed by Canadian mills, will be able to compete with Canadian mills on a delivered basis, as they do in the cash market, under the proposed rules.

Regarding the proposed amendments to delete the current method for converting per car freight rates into a rate per 100 pounds of lumber shipped and also narrow the board-foot delivery tolerance, the CME notes:

> The current contract's freight billing formula requires that freight rates be stated in terms of dollars per one hundred pounds of lumber shipped. Therefore, the emergence of per car rates as a significant factor in the spruce market requires that deliveries shipped on such rates be converted by dividing the per car rate by the shipment weight to derive a freight rate that may be used for billing. The derived rate varies with both the quantity and weight of the lumber shipped * * *. [T]he proposals to bill per car rates without conversion and to raise the low end of the shippable range from 138,000 board feet to 155,000 board feet reduces the freight cost uncertainty * * *.

In support of the proposal to change the weight basis from 1,800 to 1,650 pounds per thousand board feet shipped, the CME asserts that:

> If the lowest published rate from Prince George for 51'–6" and 52'–8" cars is a rate per one hundred pounds, the buyer would be billed on a weight basis of 1,650 pounds per thousand board feet rather than the contract's current weight basis of 1,800 pounds per thousand board feet. The proposed weight basis, which is more representative of the actual weight of delivered lumber and in line with industry practice, virtually eliminates the complexity of accounting for differences in

[1] The majority of lumber freight rates published by railroad firms are stated in terms of dollars per 100 pounds of lumber shipped. However, a few railroad firms quote lumber freight rates in terms of dollars per railcar. In recognition of this fact, current provsions of the lumber futures contract provide a method for converting any lumber freight charges quoted on the basis of dollars per rail car into dollars per 100 pounds.

"underweights" (the difference between actual and billing weights) in basis calculations and reduces the buyer's implicit cost of being able to predetermine freight charges.

The Commission is requesting comment on the merits of the CME's proposed changes, in particular the appropriateness of using Prince George, British Columbia as the origin point for assessing freight charges for all deliveries on the lumber futures contract.

Copies of the proposed amendments will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Copies of the amended terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by telephone at (202) 254-6314.

The materials submitted by the CME in support of the proposed amendments may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145 (1987)). Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

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

Issued in Washington, DC on September 5, 1990.

Steven Manaster,

Director.

[FR Doc. 90-21182 Filed 9-10-90; 8:45 am]

BILLING CODE 6351-01-M

Regulatory Coordination Advisory Committee Meeting

This is to give notice, pursuant to section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, § 10(a) and 41 CFR 101-6.1015(b), that the Commodity Futures Trading Commission's Regulatory Coordination Advisory Committee will conduct a public meeting in the Fifth floor Hearing room at the Commission's Washington, DC headquarters located at room 532, 2033 K Street NW., Washington, DC 20581, on September 26, 1990, beginning at 2 p.m. and lasting until 5 p.m. The agenda will consist of:

AGENDA

1. A general discussion of Regulatory Coordination Advisory Committee purposes and goals.

2. Update on Commission activities concerning regulatory coordination, information sharing, and other issues relevant to the automation and globalization of the markets.

3. Discussion of possible areas for Committee attention, including the potential for harmonization of derivative product risk disclosure documents; differential treatment in the offer and sale of foreign equity index derivative products versus other foreign derivative products; and regulation of managed accounts.

4. Other issues for Committee consideration; timing of next meeting; other Committee business.

The purpose of this meeting is to solicit the views of the Committee on the above-listed agenda matters. The Advisory Committee was created by the Commodity Futures Trading Commission for the purpose of advising the Commission on ways to improve coordination and to facilitate cross market transactions, including cross border transactions. The purposes and objectives of the Advisory Committee are more fully set forth in the April 16, 1990 Charter of the Advisory Committee.

The meeting is open to the public. The Chairman of the Advisory Committee, Chairman Wendy L. Gramm, is empowered to conduct the meeting in a fashion that will, in her judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Advisory Committee should mail a copy of the statement to the attention of: The Commodity Futures Trading Commission Regulatory Coordination Advisory Committee c/o Ms. Kate W. Hathaway, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, before the meeting. Members of the public who wish to make oral statements should also inform Ms. Hathaway in writing at the foregoing address at least three business days before the meeting. Reasonable provision will be made, if time permits, for an oral presentation of no more than five minutes each in duration.

Issued by the Commission in Washington, DC on September 7, 1990.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 90-21499 Filed 9-10-90; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board Advisory Group for the Air Force Communications Command (AFCC) Standard Systems Center previously scheduled for 12 September 1990, from 8 a.m. to 5 p.m. at the Standard Systems Center Headquarters, Building 888, Gunter AFB, Alabama, is cancelled. New date unknown.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-4811.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 90-21178 Filed 9-10-90; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

August 31, 1990.

The USAF Scientific Advisory Board Logistics Cross-Matrix Panel meeting previously scheduled for 7 September 90, from 8 a.m. to 5 p.m., at the HQ Air Force Logistics Command (AFLC), Wright-Patterson AFB OH, is rescheduled for 22 October 1990. The request for the closed meeting is based on the fact that discussions on classified defense matters listed in section 552b(c) of title 5, United States Code, specifically subparagraph (1) and (4) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-8845.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 90-21179 Filed 9-10-90; 8:45 am]

BILLING CODE 3910-01-M

Department of the Navy

Notice of Public Hearing for the Draft Environmental Impact Statement for Proposed Construction and Operation of a Second Relocatable-Over-The-Horizon-Radar System on Amchitka Island, AK

Pursuant to Council on Environmental Quality regulations (40 CFR parts 1500-1508) implementing procedural provisions of the National Environmental Policy Act, the Department of the Navy prepared and filed with the U.S. Environmental Protection Agency the Draft

Environmental Impact Statement (DEIS) for proposed construction and operation of a second Relocatable-Over-The-Horizon-Radar (ROTHR) System on Amchitka Island, Alaska.

The DEIS has been distributed to various federal, state, and local agencies, elected officials, special interest groups and the media. A limited number of single copies are available at the address listed at the end of this notice.

A public hearing to inform the public of the DEIS findings and to solicit comments will be held on September 26, 1990, from 7:30 p.m. to 9:30 p.m. in Conference Room 137 in the Federal Building, 222 West Seventh Avenue, Anchorage, Alaska.

The public hearing will be conducted by the U.S. Navy in cooperation with the U.S. Army Corps of Engineers. Federal, state, and local agencies and interested parties are invited and urged to be present or represented at the hearing. Oral statements will be heard and transcribed by a stenographer; however, to assure accuracy of the record all statements should be submitted in writing. All statements, both oral and written, will become part of the public record on this study. Equal weight will be given to both oral and written statements.

In the interest of available time, each speaker will be asked to limit their oral comments to five (5) minutes. If longer statements are to be presented, they should be summarized at the public hearing and submitted in writing either at the hearing or mailed to the address listed at the end of this announcement. All written statements must be postmarked by October 22, 1990, to become part of the official record.

By authority found in section 404 of the Clean Water Act and section 10 of the Rivers and Harbors Act, the Corps is beginning the public interest review on a permit application submitted by the Navy for the proposed project. This permit application is included as an appendix to the DEIS. A 45-day comment period on the Corps' review runs concurrently with the DEIS comment period, which begins September 7, 1990, and ends October 22, 1990.

The public is invited to offer comments on the Corps' review and the DEIS at the public hearing, or to submit written comments on the Corps' permit application postmarked through October 22, 1990, to District Engineer, (Attn: Dr. Mary Plumb-Mentjes), Regulatory Branch (1145b), P.O. Box 898, Anchorage, AK 99506–0898. Comments sent to the Corps should include the Corps reference number 2–900519 and an additional copy should be sent to the Navy at the address listed at the end of this notice.

The proposed ROTHR System would complete the Navy's wide-area surveillance of ships and aircraft in the northwest Pacific. The proposed project would include the construction and operation of a new receiver antenna array, a new transmitter antenna array, and support facilities. Project components would include addition, expansion, or improvement of electrical, water, and sewage systems, roads, buildings, and pier facilities, and fuel and waste storage facilities. The project would be implemented in three phases: Phase I would entail new construction, remodeling, and improvements to support facilities of the existing ROTHR system. This would include work at the Base Camp, improvements at the existing transmitter site, and construction of a new supply wharf. Phase II would consist of earthwork and road work in preparation for Phase III construction. Phase III would include installation of the new ROTHR transmitter and receiver, and improvements to the existing receiver site.

Five alternatives were evaluated in the DEIS. These included four action alternatives and a no action alternative. The action alternatives consist of different options for placement of the transmitter and receiver sites. None of the action alternatives are expected to have significant, adverse environmental effects that cannot be mitigated. The Navy has identified Alternative 1, using the preferred transmitter and receiver sites, as its preferred alternative.

The most significant impacts would be to wetlands and surface water, with the project alternatives potentially affecting almost 200 acres of these habitats. However, mitigation measures designed to restore wetland habitat in areas disturbed by previous World War II and Atomic Energy Commission activities on Amchitka Island would mitigate these impacts. Other potential environmental impacts evaluated in the DEIS are related to air quality, water quality, wildlife (including effects on the federally listed endangered Aleutian Canada goose and the threatened steller sea lion), the marine environment, cultural resources, and socioeconomics.

Additional information concerning this notice may be obtained by contacting the Commanding Officer, Engineering Field Activity Northwest, Naval Facilities Engineering Command, (Attn: Mr. Joe Divitorio, Code 09EP, telephone (206) 476–1091), 3505 NW Anderson Hill Road, Silverdale, Washington 98383–9130.

Dated: September 7, 1990.

Saundra K. Melancon,

Department of the Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 90–21414 Filed 9–10–90; 8:45 am]

BILLING CODE 3810-AE-M

Notice of Performance Review Board Membership

Pursuant to 5 U.S.C. 4314(c)(4), the Department of the Navy (DON) announces the appointment of members to the DON's numerous Senior Executive Service (SES) Performance Review Boards (PRB's). The purpose of the PRB's is to provide fair and impartial review of the SES performance appraisals prepared by the senior executive's immediate and second level supervisor; to make recommendations to the Secretary of the Navy regarding acceptance or modification of the performance rating, transfer, reassignment, or removal from the SES of any senior executive whose performance is considered to be unsatisfactory; and to make recommendations for monetary performance awards. Composition of the specific PRB's will be determined on an ad hoc basis from among individuals listed below:

Angrist, E.P. Mr.
Ashe, O.R. Mr.
Atkins, J.A. Mr.
Beach, C.P. Mr.
Blickstein, I.N. Mr.
Bowles, W.L. Mr.
Braxton, O.F. Mr.
Buckley, T. Mr.
Buonacoursi, P. Mr.
Cammack, E.G. Mr.
Camp, J.R. Mr.
Campbell, W. Mr.
Cann, G. The Honorable
Cantrell, W.H. Radm
Cargill, D.B. Radm
Carson, W.G. Ltgen
Cassity, J.E. Majgen
Clare, T.A. Dr.
Clark, C.C. Ms.
Coffey, K.J. Dr.
Coffey, T. Dr.
Collie, J.D. Mr.
Comstock, E.T. Mr.
Cornett, N.G. Ms.
Dailey, J.R. Ltgen
Deprete, A. Mr.
Dilworth, G. Mr.
Ditrapani, A.R. Mr.
Dixson, H.L. Mr.
Donalson, E.L. Mr.
Donegan, J.H. Capt
Drew, M.B. Ms.
Evans, T.W. Radm
Everett, D. Mr.
Fisher, P.E. Mr.
Ford, F.B. Mr.
Forssell, A.G. Mr.
Friichtenicht, R.D. Radm
Gaffney, P.G. Capt
Gallo, F. Radm
Geiger, C.G. Mr.
Goodman, R.O. Mr.
Guenther, J.J. Mr.
Haas, R.L. Mr.
Hallex, R.A. Mr.
Hardman, J.W. Mr.
Harner, P.A. Mr.
Hathaway, D.L. Mr.
Hauenstein, W. Radm
Herd, J.H. Mr.
Hicks, S.N. Mr.
Hillyer, R.M. Mr.
Hitch, P.M. Mr.
Hoag, P.M. Mr.
Hoffman, G.C. Mr.
Holloway, L.J. Radm
Horne, R.B., Jr., Radm
Hudson, J.I. Ltgen
Johnson, A.E. Mr.
Johnson, R.V. Mr.
Joiner, G.T. Dr.
Kill Kelley, J.L. Mr.
King, C.S. Mr.
Kinney, E.T. Mr.
Kiss, R.K. Mr.
Knudsen, R. Dr.
Kreitzer, L.P. Mr.
Leach, R.A. Mr.
Lefande, R.A. Dr.
Lindahl, W.H. Mr.
Lynch, J.G. Mr.
Marsh, J.W. Mr.
Masciarelli, J.R. Mr.
Matteo, D.M. Mr.
McBurnett, G. Ms.
McCauley, D.W. Mr.
McCormack, R.C. The Honorable
McGadney, R.L. Mr.
Meinig, G.R. Radm
Meletzke, D.M. Ms.
Messere, E.L. Mr.
Miller, J.E. Radm
Miller, W.C. Radm

Milligan, R.D. Radm
Morency, D.C. Mr.
Morris, W.R. Radm
Moseley, W.B. Dr.
Murphy, P.M. Mr.
Nemfakos, C.P. Mr.
Nickell, J. Mr.
Nieroski, J.S. Mr.
O'Connor, J.J. Mr.
Painter, J.A. Dr.
Panek, R.L. Mr.
Pennisi, R.A. Mr.
Peters, R.K. Ms.
Phelps, F.A. Mr.
Pope, B.S. The Honorable
Porter, W.B. Mr.
Price, R.W. Mr.
Quade, W. Mr.
Rathjen, R.A. Mr.
Reese, H.E. Mr.
Renfro, J.G. Mr.
Riggs, R.K. Mr.
Robinson, B.B. Dr.
Rose, W.B. Mr.
Saalfeld, F.E. Dr.
Sansone, W. Mr.
Saul, E.L. Mr.
Schaefer, W.J., Jr. Dr.
Schafer, J. The Honorable
Schieffer, G. Mr.
Selwyn, P.A. Dr.
Shaffer, R.L. Mr.
Shepard, J.J. Dr.
Sheridan, F.L. Mr.
Silberman, R.S. Mr.
Silva, E.A. Dr.
Sinsky, J.A. Dr.
Smith, N.H. Ltgen
Somoroff, A. Dr.
Spalding, G.R. Mr.
Steele, R.H. Mr.
Sterns, F.S. Mr.
Storey, R.C. Mr.
Straw, E.M. Radm
Studds, J.A. Majgen
Swofford, F.W. Mr.
Taussig, J.K. Mr.
Thomas, R.O. Mr.
Thompson, R.H. Mr.
Tupaz, J.B. Capt
Turner, D. Mr.
Turnquist, C.J. Mr.
Urban, R.G. Mr.
Weiss, A.R. Mr.
Wessel, P.L. Mr.
Wilcox, H.J. Mr.
Wilgenbusch, R. Radm
Williams, J.F. Mr.
Willoughby, W.J. Mr.
Wineglass, R.J. Majgen
Winokur, R.S. Mr.
Wolkensdorfer, D. Radm
Wood, A.D. Dr.
Wyant, F.E. Mr.
Zanfagna, P.E. Mr.

Dated: August 21, 1990.

Jane M. Virga,

Lt. JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 90–21227 Filed 9–10–90; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

[CFDA Nos. 84.120A and 84.120B]

Minority Science Improvement Program; Technical Assistance Workshop

AGENCY: Department of Education.

ACTION: Notice of Technical Assistance Workshop.

SUMMARY: This is a supplement to the notice inviting applications for new awards for fiscal year 1991 under the Minority Science Improvement Program (MSIP). That notice was published in the **Federal Register** on August 6, 1990 (55 FR 31874). The Assistant Secretary for Postsecondary Education of the U.S. Department of Education will sponsor a two-day Technical Assistance Workshop for colleges and universities interested in applying for Minority Science Improvement Program grants. This workshop will be conducted by representatives of the Office of Higher Education Programs and will cover regulations governing MSIP applications, including application evaluation criteria, allowable and non-allowable costs, and grantee accountability. Workshop leaders will also offer suggestions for preparing successful applications. The sessions will be especially helpful for first-time and formerly unsuccessful MSIP applicants.

Date: September 13–14, 1990.

Time: 9 a.m. to 5 p.m., both days.

Place: California State University-Dominguez Hills, 100 East Victoria Street, Carson, CA 90747.

FOR FURTHER INFORMATION CONTACT: Dr. Argelia Velez-Rodriguez, Minority Science Improvement Program, Division of Higher Education Incentive Programs, Office of Postsecondary Education. Telephone number: (202) 708–4662.

(Catalog of Federal Domestic Assistance Nos. 84.120A and 84.120B, Minority Science Improvement Program: Design, Institutional and Cooperative Projects, and Minority Science Improvement Program: Special Projects, respectively.)

Dated: September 4, 1990.

Leonard L. Haynes, III,

Assistant Secretary for Postsecondary Education.

[FR Doc. 90–21206 Filed 9–10–90; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TA91-1-23-000]

Eastern Shore Natural Gas Co.; Proposed Changes in FERC Gas Tariff

September 4, 1990.

Take notice that Eastern Shore Natural Gas Company (ESNG) tendered for filing on August 31, 1990 certain revised tariff sheets to Original Volume No. 1 of its FERC Gas Tariff. The proposed effective date of the tariff sheets is November 1, 1990.

ESNG states the filing is its Annual PGA filing pursuant to § 154.305 of the Commission's regulations and section 21 of its FERC Gas Tariff, Original Volume No. 1. The effect of the filing is to increase commodity rates by $0.1865 per dt and increase demand rates by $0.7707 over ESNG's rates established in its Quarterly PGA filing, Docket No. TQ90–3–23–000, effective August 1, 1990. Other rates also change correspondingly.

ESNG states that the projected commodity and demand costs have been developed using a best estimate of available gas supply to meet its anticipated purchased requirements. Such projections reflect the continued implementation of ESNG's Stipulation and Agreement in Docket Nos. RP89–164–000 and –001, and more specifically Article II (as amended) thereof, which permits ESNG to include in its PGA calculations transportation-related (Account No. 858) costs.

ESNG states its filing also contains the calculations of its new surcharge adjustments which reflect the amortization of the respective commodity and demand current deferral balances accumulated during the period July 1, 1989 through June 30, 1990 over the twelve month period commencing November 1, 1990.

ESNG states that copies of the filing are being mailed to each of its customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street NE., Washington, DC 20426, in accordance with Rule 211 and Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before September 24, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90–21185 Filed 9–10–90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TQ90-12-51-002, TQ90-14-51-000, and TM91-1-51-000]

Great Lakes Gas Transmission Co.; Proposed Changes in FERC Gas Tariff Purchased Gas Adjustment Clause Provisions

September 4, 1990.

Take notice that Great Lakes Gas Transmission Company ("Great Lakes") on August 29, 1990 tendered for filing the following to its FERC Gas Tariff.

Item 1:

First Revised Volume No. 1

Substitute Twenty-Ninth Revised Sheet No. 57(i)
Substitute Twenty-Ninth Revised Sheet No. 57(ii)
Substitute Fifteenth Revised Sheet No. 57(v)

Item 2:

First Revised Volume No. 1

Thirtieth Revised Sheet No. 57(i)

Thirtieth Revised Sheet No. 57(i)
Sixteenth Revised Sheet No. 57(v)

Item 3:

First Revised Volume No. 1

Third Revised Sheet No. 57(iv)

The tariff sheets in Item 1 were filed to reflect the appropriate current purchased gas cost adjustment for its quarterly PGA for the period August 1, 1990 through October 31, 1990.

The tariff sheets in Item 2 were filed to reflect revised current PGA rates for the months of August through October, 1990. The tariff sheets were filed as an out-of-cycle PGA to reflect the latest estimated gas cost as provided to Great Lakes by its sole supplier of natural gas, TransCanada PipeLines Limited ("TransCanada"). These pricing arrangements are the result of contract renegotiation between each of Great Lakes' resale customers and the supplier.

The tariff sheet in Item 3 was filed to reflect the new ACA rate to be charged per the Annual Charge Adjustment Clause provisions established by the Commission in Order No. 472, issued on May 29, 1987 and the FERC notice given July 18, 1990, and is to be effective October 1, 1990.

Great Lakes requested waiver of the notice requirements so as to permit the above tariff sheets to become effective August 1, 1990 and October 1, 1990, as described, in order to implement the gas pricing agreements between Great Lakes' resale customers and TransCanada on a timely basis.

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. All such petitions or protests should be filed on or before September 11, 1990. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90–21186 Filed 9–10–90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM91-1-46-000]

Kentucky West Virginia Gas Co.; Proposed Change in FERC Gas Tariff

September 4, 1990.

Take notice that Kentucky West Virginia Gas Company (Kentucky West) on August 30, 1990, tendered for filing with the Federal Energy Regulatory Commission (Commission) Third Revised Sheet No. 45 to its FERC Gas Tariff, Second Revised Volume No. 1, to become effective October 1, 1990.

Kentucky West states the revised tariff sheet amends its Annual Charge Adjustment (ACA) charge to place in effect the new ACA funding unit of $.0019 per MCF which represents an increase of $.0002 per MCF.

Kentucky West states that a copy of its filing has been served upon each of its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before September 11, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90–21187 Filed 9–10–90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-33-008 CP78-124-017]

Northern Border Pipeline Co.; Compliance Tariff Filing

September 4, 1990.

Take notice that on August 29, 1990, in compliance with the Commission's July 30, 1990 Order in Docket No. RP89–33–000, Northern Border Pipeline Company (Northern Border) tendered for filing to become part of Northern Border Pipeline Company's F.E.R.C. Gas Tariff, Original Volume No. 1, the following tariff sheets:

Second Revised Sheet No. 104
Second Revised Sheet Number 105
Fifth Revised Sheet Number 108
Original Sheet No. 108a
Fourth Revised Sheet No. 111
Second Revised Sheet No. 500

Northern Border has requested that these compliance tariff sheets be effective September 1, 1990. Northern Border states that copies of this filing have been sent to all parties of record in this proceeding.

Any person desiring to be heard or to protest said filing should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 11, 1990. Protests will be considered but do not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. A person already a party in Docket No. RP89–33 need not file a separate intervention in this proceeding.

Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90–21188 Filed 9–10–90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM91-2-37-000, TQ91-1-37-000]

Northwest Pipeline Corp.; Proposed Change in Sales Rates Pursuant To Purchased Gas Cost Adjustment

September 4, 1990.

Take notice that on August 29, 1990, Northwest Pipeline Corporation ("Northwest") submitted for filing a proposed change in rates applicable to service rendered under rate schedules affected by and subject to Article 16, Purchased Gas Cost Adjustment Provision ("PGA"), of its FERC Gas Tariff, First Revised Volume No. 1. Such changes in rates is for the purpose of reflecting changes in Northwest's estimated cost of purchased gas for the three months ending December 31, 1990.

The current PGA adjustment for which notice is given herein, aggregates to a decrease of 16.6¢ per MMBtu in the commodity rate for all rate schedules affected by and subject to the PGA. The proposed change in Northwest's commodity rates for the fourth quarter of 1990 would decrease sales revenues by approximately $2,567,824. The instant filing also provides for a decrease in the demand components of Northwest's gas sales rates to reflect changes to the estimates of Canadian demand rates and to reflect a revised Canadian exchange rate factor. The current PGA

adjustment is reflected on Sheet Nos. 10 and 10.1 below, while all other tariff sheets listed herein are filed to reflect the revised ACA surcharge of .19¢ per MMBtu effective October 1, 1990.

Northwest hereby tenders the following tariff sheets to be effective October 1, 1990:

First Revised Volume No. 1

Seventy-First Revised Sheet No. 10
Fourth Revised Sheet No. 10.1
Fortieth Revised Sheet No. 10–A

Original Volume No. 1–A

Twenty-Ninth Revised Sheet No. 201

Original Volume No. 2

Seventeenth Revised Sheet No. 2.3
Twentieth Revised Sheet No. 2–B

Northwest states that a copy of this filing is being served on Northwest's jurisdictional customers and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before September 11, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90–21190 Filed 9–10–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP88–115–000, et al.]

Texas Gas Transmission Corp.; Informal Settlement Conference

September 4, 1990.

Take notice that an informal settlement conference will be convened in this proceeding on September 27, 1990, at 10:00 a.m. at the offices of the Federal Energy Regulatory Commission, 810 First Street NE., Washington, DC 20426.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Donald A. Heydt, (202) 208–0248 or Joanne Leveque, (202) 208–5705.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90–21189 Filed 9–10–90; 8:45 am]

BILLING CODE 6717–01–M

Office of Fossil Energy

[Docket No. FE C&E 90–17; Certification Notice—65]

Filing of Certification of Compliance; Coal Capability of New Electric Powerplant

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of filing.

SUMMARY: Title II of the Powerplant and Industrial Fuel Use Act of 1978, as amended, ("FUA" or "the Act") (42 U.S.C. 8301 *et seq.*) provides that no new electric powerplant may be constructed or operated as a base load powerplant without the capability to use coal or another alternative fuel as a primary energy source (section 201(a), 42 U.S.C. 8311(a), Supp. V. 1987). In order to meet the requirement of coal capability, the owner or operator of any new electric powerplant to be operated as a base load powerplant proposing to use natural gas or petroleum as its primary energy source may certify, pursuant to section 201(d), to the Secretary of Energy prior to construction, or prior to operation as a base load powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes compliance with section 201(a) as of the date it is filed with the Secretary. The Secretary is required to publish in the **Federal Register** a notice reciting that the certification has been filed. One owner and operator of proposed new electric base load powerplant has filed self certification in accordance with section 201(d). Further information is provided in the **SUPPLEMENTARY INFORMATION** section below.

SUPPLEMENTARY INFORMATION: The following company has filed self certification:

Name	Date received	Type of facility	Megawatt capacity	Location
L&J Energy Systems, Inc., Tampa, FL.	8–20–90	Combine Cycle.	49	Lowville, NY.

Amendments to the FUA on May 21, 1987, (Public Law 100–42) altered the general prohibitions to include only new electric base load powerplants and to provide for the self certification procedure.

Copies of this self certification may be reviewed in the Office of Fuels Programs, Fossil Energy, Room 3F–056, FE–52, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, or for further information call Myra Couch phone number (202) 586–6769.

Issued in Washington, DC on September 4, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90–21277 Filed 9–10–90; 8:45 am]

BILLING CODE 6450–01–M

Office of Hearings and Appeals

Cases Filed During the Week of April 27 Through May 4, 1990

During the Week of April 27 through May 4, 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.

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: September 4, 1990.

George B. Breznay,

Director, Office Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of April 27 through May 4, 1990]

Date	Name and location of applicant	Case No.	Type of submission
5/3/90	Franc Pajek Company, Walnut, California	LFA-0040	Appeal of an Information Requet Denial. If granted: The April 5, 1990 Freedom of Information Request Denial issued by the San Francisco Operations Office would be rescinded, and Frank Pajek Company would receive access to release copies of all bids submitted in response to Solicitation No. 5724900A.
5/3/90	Getty/Akin Energy, Greenville, North Carolina	RR265-3	Motion for Reconsideration. If granted: The September 22, 1990 Decision and Order (Case No. RF265-2832) issued to Akin Energy would be modified regarding the firm's Application for Refund submitted in the Getty Oil Company Special Refund proceeding.
5/3/90	Texas, Austin, Texas	LER-00005	Motion for Reconsideration. If granted: The October 26, 1998 Decision and Order (KER-0045) issued to Texas would be modified regarding the state's Application for Refund submitted in the Crude Oil refund proceeding.

REFUND APPLICATIONS RECEIVED

[Week of April 27 through May 4, 1990]

Received	Name of firm	Case No.
4/27/90 thru 5/5/90.	Texaco Oil Refund Applications Received.	RF321-4402 thru FR321-4747.
4/27/90 thru 5/4/90.	Shell Oil Refund Applications Received.	RF315-9949 thru FR315-9956.
4/30/90	Vickers/ Missouri.	RQ1-553.
4/30/90	J.T. & C.A. Thrift, Inc.	RF307-10122.
5/1/90	Bob's Gulf of Camden.	RF300-11116.
5/1/90	College Car Wash.	RF304-11823.
5/1/90	Carroll Brothers Sawmill.	RF272-78603.
5/1/90	Gregory Michelis.	RF272-78604.
5/1/90	Hirsch Realty Mgt. Corp.	RF272-78605.
5/1/90	Bill Kartson's	RF272-78606.
5/2/90	Rockville Center.	RF272-78607.

REFUND APPLICATIONS RECEIVED—Continued

[Week of April 27 through May 4, 1990]

Received	Name of firm	Case No.
5/2/90	L.D. Rhodes Oil Company.	RF300-11117.
5/2/90	Mrs. Grace Morris.	RF304-11824.
5/4/90	Glen Anthony (Tony) Smith.	RF272-78608.
5/4/90	Carroll Brothers Sawmill.	RF300-11118.
5/4/90	Izzy's Gulf	RF300-11119.

[FR Doc. 90-21278 Filed 9-10-90; 8:45 am]

BILLING CODE 6450-01-M

The Office of Hearing and Appeals

Cases Filed During Week of June 22 through June 29, 1990

During the Week of June 22 through June 29, 1990, the appeal listed in the Appendix to this Notice was filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have 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: September 4, 1990.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of June 22 through June 29, 1990]

Date	Name and location of applicant	Case No.	Type of submission
6/5/90	Foundation for Fair Contracting, Sacramento, CA	LFA-0055	Appeal of an Information Request Denial. If granted: The May 23, 1990 Freedom of Information Request Denial issued by the Western Area Power Administration would be rescinded, and the Foundation for Fair Contracting would receive access to the requested names and addresses listed on certain payroll records.

REFUND APPLICATIONS RECEIVED

[Week of June 22 through June 29, 1990]

Received	Name of firm	Case No.
8/4/88	Sabine Tow. & Transp.	RF307-10131.
11/14/88	W.H. Radar	RF307-10132.
6/22/90 thru 6/29/90.	Texaco Refund Applications Received.	RF321-7218 thru RF321-7464.
6/22/90 thru 6/29/90.	Gulf Oil Refund Applications Received.	RF300-11155 thru RF300-11167.
6/22/90 thru 6/29/90.	Crude Oil Refund Applications Received.	RF272-78647 thru RF272-78661.
6/22/90 thru 6/29/90.	Atlantic Richfield Refund Applications Received.	RF304-11891 thru RF304-11899.
6/25/90	Sullivan Oil Co.	RF315-9993.

REFUND APPLICATIONS RECEIVED—Continued

[Week of June 22 through June 29, 1990]

Received	Name of firm	Case No.
6/25/90	Hood Oil Co., Inc.	RF315-9994.
6/26/90	Jess Prieto	RF315-9995.
6/26/90	Jess Prieto	RF315-9996.
6/26/90	Jess Prieto	RF315-9997.
6/26/90	Jess Prieto	RF315-9998.
6/28/90	Western Spur	RF309-1407.

[FR Doc. 90-21279 Filed 9-10-90; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Case Filed During Week of July 20 through July 27, 1990

During the week of July 20 through July 27, 1990, the applications for refund or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have 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: September 4, 1990.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of July 20 through July 27, 1990]

Date	Name and location of applicant	Case No.	Type of submission
7/20/90	Exxon Corporation/Dead River Petroleum Co., Hardin, Kentucky.	RR307-9	Motion for Reconsideration. If granted: The June 11, 1990 Decision and Order (Case No. FR307-272) issued to Dead River Petroleum Company would be modified regarding the firm's application for refund submitted in the Exxon corporation refund proceeding.
7/20/90	Standard Oil Co. (IN)/Nebraksa, Lincoln, Nebraska	RM251-211	Motion for Modification. If granted: The State of Nebraska would be given an extension of time from October 31, 1990 to April 30, 1991 for completion of its "Energy Marketing and Media Services Project," financed with Amoco consent order funds.
7/27/90	Amoco Corporation/New Hampshire, Coline Gasoline Corporation/New Hampshire, National Helium Corporation/New Hampshire, Northeast Petroleum Industries/New Hampshire, Concord, New Hampshire.	RM251-212 RM2-213 RM3-214 RM25-215	Motion for Modification. If granted: The September 16, 1986 Decision and Order, RQ251-315, RQ2-314, RQ3-300, RQ25-299, issued to New Hampshire would be modified regarding the state's application for refund submitted in the Amoco Corporation, Coline Gasoline Corporation, National Helium Corporation and Northeast Petroleum Industries second stage refund proceeding.
7/27/90	Gulf Oil Corporation/Trans World Airlines, Kansas City, Missouri.	RR300-12	Motion for Reconsideration. If gramted: The March 20, 1989 Decision and Order, Case No. FR300-5691, issued to Trans World Airlines would be modified regarding the fim's application for refund submitted in the Gulf Oil Corporation refund proceeding.

REFUND APPLICATIONS RECEIVED

Date received	Name of refund proceeding/name of refund application	Case No.
7/18/90	Chapman & Main Car Wash.	RF3 07-10139.
12/6/88	Dona's Exxon	RF307-10141.
7/23/90	Vaughn Shell Service.	RF315-10005.
7/23/90	Milne Shell Service	RF315-10006.
7/23/90	Cantu Shell	RF315-10007.
7/23/90	Chalet Shell Service	RF315-10008.
7/23/90	Troy Selman Shell	RF3 15-10009.
7/23/90	West Metairie Shell	RF315-10010.
7/23/90	Wingate Shell Service.	RF315-10011.
7/23/90	Ed's Shell	RF315-10012.
7/23/90	Kennel's Service Center.	RF315-10013.

REFUND APPLICATIONS RECEIVED—Continued

Date received	Name of refund proceeding/name of refund application	Case No.
7/23/90	Ayers Shell	RF315-10014.
7/25/90	Laurel Shell Service	RF315-10015.
9/1/88	Tiny Giant Market	RF3 07-10143.
7/25/90	Bass Oil Co.	RF304-11949.
7/26/90	Spur Go Shop	RF3 09-11411.
7/26/90	Amoco Corporation	RF324-1.
7/17/90	Faith Oil Co	RF304-11950.
8/24/88	Mervyn Robert Fleisher.	RF307-10142.
7/27/90	Sarge's Service Center.	RF315-10016.
7/20/90 thru 7/27/90	Crude Oil Refund Applications Received.	RF272-78720 thru 272-79046.

REFUND APPLICATIONS RECEIVED—Continued

Date received	Name of refund proceeding/name of refund application	Case No.
7/20/90 thru 7/27/90.	Texaco Refund Applications Received.	RF321-8077 thru RF321-8344.
7/20/90 thru 7/27/90.	Gulf Oil Refund Applications Received.	RF300-11200 thru RF300-11235

[FR Doc. 90-21280 Filed 9-10-90; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders During Week of July 23 Through July 27, 1990

During the week of July 23 through July 27, 1990 the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Foundation for Fair Contracting, 7/23/90, LFA–0055

The Foundation for Fair Contracting (FFC) filed an Appeal from a determination in which the Western Area Power Administration (WAPA) withheld the names, addresses, and Social Security numbers from payroll records that FFC requested under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that the justification for withholding the requested information was inadequate under the FOIA. The Appeal was, therefore, granted, and the matter was remanded to the WAPA for further review and a new determination.

Grove, Inc., 7/26/90, LFA–0054

Grove, Inc. filed an Appeal from a denial by the DOE's Nevada Operations Office (the Operations Office) of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). The Operations Office had withheld documents concerning cost estimates for the C–1 building at its Field Engineering Complex in North Las Vegas under the "predecisional" or "executive" privilege incorporated in Exemption 5 of the FOIA. The DOE upheld that determination, finding that the withheld documents directly related to ongoing negotiations concerning the amount that the Operations Office should pay Grove for certain work on the building. The DOE also found that the fact that one document was prepared by non-agency personnel pursuant to a contract with the agency did not affect its exempt status.

Harold O. Dogliani, 7/26/90, LFA–0056

Harald O. Dogliani filed an Appeal from a determination by the Deputy Director of the Office of Intergovernmental and External Affairs of the DOE's Albuquerque Operations Office. The determination denied a Request for Information which Dogliani had submitted under the Freedom of Information Act. Dogliani requested copies of the credit card contracts that the Los Alamos National Laboratory had entered into with Diners Club. In considering the Appeal, the DOE found that the Deputy Director had correctly determined that the contracts were not agency records. Accordingly, the Appeal was denied.

Motion for Evidentiary Hearing

Mt. Airy Refining Co., et al., 7/25/90, KRH–0322

Mt. Airy Refining Company (Mt. Airy) filed a Motion for Evidentiary Hearing in connection with a Proposed Remedial Order (PRO) issued to it by the Economic Regulatory Administration (ERA) on July 25, 1986. The PRO alleges violations of the Mandatory Petroleum Allocation Regulations, 10 C.F.R. Part 211 and the Administrative Procedures and Sanctions, 10 C.F.R. Part 205, resulting from Mt. Airy's reporting of its crude oil receipts on its Refiners Monthly Reports for the period July 1977 through November 1977. The DOE granted an evidentiary hearing in order to permit Mt. Airy to present testimony concerning the DOE policy in 1977 regarding starting inventory adjustments. The DOE stated that the firm may call as witnesses three individuals who have previously submitted affidavit testimony.

Interlocutory Order

Mt. Airy Refining Co., et al., 7/25/90, LRZ-0005

Mt. Airy Refining Company (Mt. Airy) filed a Motion to Dismiss the Named Individual Defendants as Parties in connection with a Proposed Remedial Order (PRO) which the Economic Regulatory Administration issued to the firm and six shareholders on July 25, 1986. The PRO alleges that Mt. Airy failed to report crude oil receipts on its Refiners Monthly Reports for the period July 1977 through November 1977. In addition, the PRO states that the six shareholders are liable for Mt. Airy's violations to the extent that Mt. Airy's assets were distributed to them upon the firm's dissolution. The DOE determined that the shareholders' contentions, e.g., laches, statute of limitations, and notice, did not support the dismissal of the PRO as to them. Accordingly, the Motion to Dismiss was denied.

Implementation of Special Refund Procedures

Diamond Industries, Inc., 7/25/90, KEF–0130

The DOE issued a Decision and Order implementing procedures for the distribution of $283,962.91, plus interest, received pursuant to a consent order entered into by Diamond Industries, Inc. (Diamond) and the DOE on July 22, 1986. The DOE determined that the funds will be distributed to the 40 identified customers listed in the Appendix to the Decision and Order who purchased kerosene and No. 2 fuel oil from Keystone Fuel Oil Company (Keystone), a subsidiary of Diamond. Certain unidentified customers who purchased from three other Diamond subsidiaries are also eligible. These subsidiaries are: Diamond Ice & Fuel Co. of Delaware, Diamond Ice & Fuel Co. of Chester, Pennsylvania and Meadford-Dunleavy, Inc. The purchases from Keystone and the other subsidiaries would have occurred during the period from August 19, 1973 through April 8, 1974. The specific information to be included in an Application for Refund is specified in the Decision and Order.

Fletcher Oil & Refining Cmpany, Inc., 7/25/90, LEF-0010

The DOE issued a Decision and Order implementing special refund procedures to distribute $1,999,670.96, and accrued interest, remitted to the DOE by Fletcher Oil & Refining Company, Inc. (Fletcher) in settlement of its alleged violations of petroleum price and allocation regulations. The DOE determined that it would evenly divide the Fletcher settlement monies between one refund pool to provide restitution based on the company's alleged *crude oil* violations and another refund pool to provide restitution based on alleged violations in *refined product* sales. The crude oil pool will be disbursed to the federal government, the states, and eligible applicants in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases. The refined product pool will be distributed in the following two stages: refunds to purchasers of Fletcher product in the first stage, and transfer of monies remaining after the payment of all eligible first-stage claims to the states as mandated by the Petroleum Overcharge Distribution and Restitution Act of 1986.

Meadows Realty Company (formerly San Joaquin Oil Company), San Joaquin Refining Co., Inc., 7/27/90, KEF-0133

The DOE issued a Decision and Order implementing procedures for the distribution of $1,250,000, plus interest, received pursuant to a consent order entered into by Meadows Realty Company (formerly San Joaquin Oil Company) and San Joaquin Refining Co., Inc. (hereinafter collectively referred to as San Joaquin) and the DOE on June 17, 1988. The DOE determined that $1,000,000 of the funds will be

distributed to purchasers of San Joaquin refined petroleum products during the period from September 1973 until the date that the product claimed was decontrolled. The DOE determined that the remaining $250,000 will be distributed pursuant to the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases. The specific information to be included in an Application for Refund is specified in the Decision and Order.

Quantum Chemical Corporation, 7/25/90, LEF-0011

The DOE issued a Decision and Order implementing a plan for the distribution of $450,000 received pursuant to a consent order executive on March 25, 1988 between the DOE and the Quantum Chemical Corporation (Quantum). The DOE determined that these funds should be distributed to successful claimants that had purchased natural gasoline or derived products from Quantum during the period August 1, 1973 through January 27, 1981. The specific information to be included in Applications for Refund is set forth in the Decision.

Refund Applications

Atlantic Richfield Company/Sunset Market, 7/26/90, RF304-2747

The DOE issued a Decision and Order concerning an Application for Refund filed in the Atlantic Richfield Company special refund proceeding by Richard Gindhart on behalf of Sunset Market. The applicant claimed disproportionate injury from alleged predatory pricing pratices and was seeking a refund of $50,173. The DOE found that Sunset's allegations did not involve matters subject to the Mandatory Petroleum Allocation and Price Regulations. The applicant was granted a volumetric refund in the ARCO proceeding but was denied a greater refund based upon an alleged disproportionate overcharge. The refund granted in this Decision totaled $241, representing $173 in principal and $68 in accrued interest.

City of Columbus, Ohio, 7/27/90, RF272-31670

The DOE issued a Decision and Order concerning an Application for Refund submitted by the City of Columbus, Ohio from crude oil overcharge funds. The City of Columbus requested a refund based on its purchases of refined petroleum products during the period August 19, 1973 through January 27, 1981, pursuant to 10 C.F.R. part 205, subpart V. Since the City of Columbus waived its rights to a subpart V crude oil refund, it was ineligible to receive the refund for which it applied. Accordingly, the Application for Refund submitted by the City of Columbus was denied.

Edward Lowe Industries, Inc., 7/25/90, RF272-55306, RD272-55306

The DOE issued a Decision and Order concerning an Application for Refund filed in the crude oil fund being disbursed by the DOE pursuant to 10 C.F.R. part 205, subpart V. The DOE determined that the refund claim was meritorious and granted a refund of $26,925. The DOE also denied a Motion for Discovery filed by a consortium of states and two territories of the United States (the States) and rejected their challenge to the claim. The DOE found that the industry-wide econometric data submitted by the States did not rebut the presumption that the applicant was injured by the crude oil overcharges.

Fer River Towing Company, 7/26/90, RF272-124, RD272-124

The DOE issued a Decision and Order granting a refund from crude oil overcharge funds to Fer River Towing Company (Fer) based on its purchases of refined petroleum products during the period August 19, 1973 through January 27, 1981. A group of twenty-eight states and two territories of the United States (the States) filed a pleading objecting to the application. The States submitted an affidavit by an economist stating that Fer was able to pass through all costs to its customers. The DOE determined that the evidence offered by the States was insufficient to rebut the presumption of end-user injury and that the applicant should receive a refund. In addition, the States filed a Motion for Discovery which was denied. The refund granted in this Decision is $29,756.

Georgia Pacific Corporation, 7/24/90, RR272-39

The DOE considered a Motion for Reconsideration filed by Georgia Pacific Corporation (GPC) requesting an additional refund in the subpart V crude oil refund proceeding based upon additional purchases of petroleum products not considered in a previous determination which approved a crude oil refund for the firm. The DOE determined that GPC was entitled to an additional refund of $34,525.

Glen Thornton, et. al., 7/26/90, RF272-60997 et al.

The DOE issued a Decision and Order concerning 35 Applications for Refund filed in the subpart V crude oil refund proceeding. Each applicant was either a reseller or a retailer during the period August 19, 1973 through January 27, 1981. Because none of the applicants demonstrated that they were injured due to crude oil overcharges, they were ineligible for crude oil refund monies. Accordingly, the 35 Applications were denied.

Gulf Oil Corporation/Lake Air Gulf, Koontz's Gulf Service, Hahira Gulf Station, 7/25/90, RF300-8616, RF300-8712, RF300-8725

The DOE issued a Decision and Order concerning the Applications for Refund of three retailers in the Gulf Oil Corporation refund proceeding. All three of the Applications were filed for the applicants by Energy Watch, Inc. The three applicants were unable to provide any documentation to establish that they purchased Gulf refined petroleum products or that they were even in business during the consent order period. Accordingly, all three Applications were denied.

Gulf Oil Corporation/Rice-Lindquist, Inc., 7/24/90, RF300-4872

The DOE issued a Decision and Order concerning an Application for Refund filed by Rice-Lindquist, Inc. in the Gulf Oil Corporation special refund proceeding. Rice-Lindquist, a reseller of motor gasoline and distillate demonstrated that it maintained cost banks during the relevant time period greater than its allocable share. For each product claimed by Rice-Lindquist, the DOE performed a three-prong competitive disadvantage test, examining gross excess cost, net excess cost, and above-market volumetric share. *Platt's* was used for price comparisons. The applicant received its full volumetric allocation for regular gasoline, and its above-market volumetric share for premium gasoline and distillate. The total refund granted in this Decision is $62,574, representing $44,008 in principal and $18,566 in interest.

Gulf Oil Corporation/Wayne Mills Company, Inc., Central Duboise Vans, Inc., 7/24/90, RF300-10809, RF300-10810

The DOE issued a Decision and Order denying two Applications for Refund, Wayne Mills Company, Inc. (Case No. RF300-10809) and Central Dubois Vans, Inc. (Case No. RF300-10810), filed by Federal Action. Despite many requests from the DOE, Federal Action did not submit any sample records, such as invoices or tax forms, from either of these two applicants to substantiate their refund claims. Without these records, there is no clear evidence demonstrating that the applicants were in the business of retailing Gulf products during the consent order period. Therefore, the Applications were denied due to insufficient documentation.

Kraft, Inc., 7/27/90, RF272-22200, RD272-25982

The DOE issued a Decision and Order denying the Application for Refund filed by Kraft, Inc., in the crude oil subpart V proceeding. Because the applicant had previously waived its right to a subpart V crude oil refund by filing an application and waiver in the Stripper Well Surface Transporter refund proceeding, it was found to be ineligible for a crude oil refund. Accordingly, Kraft's Application was denied. A group of states and two territories of the United States had filed comments with regard to the Application and a Motion for Discovery. However, as the Application was being denied, the DOE determined that the comments were irrelevant, and the Motion was dismissed.

Northwood Stone and Asphalt Co., West Virginia Paving, Inc., United Asphalt Corp., 7/27/90, RF272-35933, RD272-35933, RF272-35936, RD272-35936, RF272-35937

The DOE issued a Decision and Order granting refunds from crude oil overcharge funds to West Virginia Paving, Inc. and United Asphalt Corp. based on their respective purchases of refined petroleum products during the period August 19, 1973 through January 27, 1981. A group of twenty-seven states and two territories of the United States (the States) filed consolidated pleadings objecting to and commenting on the applications filed by Northwood Stone and Asphalt Co. and West Virginia Paving, Inc. The DOE determined that the general evidence offered by the States to the effect that road construction firms were able to pass through increased energy costs was insufficient to rebut the presumption of end-user injury and that West Virginia Paving, Inc. and United Asphalt Corp. should receive refunds. In addition, the Motions for Discovery filed by the States were denied. The DOE also determined that refund application filed by Northwood Stone and Asphalt Co. should be denied since the applicant could not substantiate the volume figures it used in its application. The sum of the refunds granted in this Decision is $111,844.

Raytheon Company, 7/27/90, RF272-409

The DOE issued a Decision and Order granting a refund from crude oil overcharge funds to Raytheon Company based on its purchases of refined petroleum products during the period August 19, 1973 through January 27, 1981. The applicant used the petroleum products in the manufacture of electronics, aircraft products and appliances and determined its claim using monthly consumption records. The applicant was an end-user of the products it claimed for a refund and was therefore presumed injured. A consortium of states and territories of the United States (the States) filed a Statement of Objections and Motion for Discovery with respect to the applicant. The DOE found that the Statement of Objections was insufficient to rebut the presumption of injury for end-users and the Motion for Discovery was denied. The total refund amount granted is $31,472.

Texaco Inc./Green Trails Texaco, Rick's Green Trails Texaco, 7/26/90, RF321-2769, RF321-3115

The DOE issued a Decision and Order in the Texaco Inc. refund proceeding concerning two Applications for Refund filed by the owners of a retail outlet that was a direct purchaser of Texaco refined products. One Application, filed by Keith Grosz, was denied on the grounds that the applicant was not the owner of the retail outlet during the Texaco consent order period. The other Application, filed by Rick Grosz, who owned the outlet during the consent order period, was granted. Rick Grosz did not seek a refund greater than the $10,000 small claims threshold established in the Texaco proceeding; accordingly he was not required to demonstrate injury. Thus, the amount of refund granted to Rick Grosz was calculated by multiplying the volume of price controlled products purchased by the applicant during the Texaco consent order period by $0.0011, the volumetric refund amount. The total refund amount granted in this Decision is $5,202, representing $4,461 in principal and $741 in interest.

The True Companies/V-1 Oil Co., 7/26/90, RF195-15

The DOE issued a Decision and Order concerning a refund Application filed by V-1 Oil Company from a consent order fund made available by The True Companies. V-1 requested a full volumetric refund of $127,465 and attempted to demonstrate injury at that level. In considering V-1's information regarding its unrecouped costs, the DOE noted that the firm banked increased non-product costs before it was allowed to do so and further that the firm included a seven cent per gallon non-product cost increase as of May 1977, instead of January 1980. The DOE gave the firm the opportunity to revise its banks, but it refused to do so. Accordingly, the DOE recalculated V-1's banks, disallowing the improper inclusions. Based on that recalculation, the DOE found that the firm had negative banks of more than $800,000 for the regulated period. The DOE concluded that the firm had not incurred any injury as result of its purchases from True and therefore denied the Application.

Wesmor Trailer and Leasing, et al., 7/26/90, RF272-61770 et al.

The DOE issued a Decision and Order concerning eight Applications for Refund filed in the Subpart V crude oil refund proceeding. Each applicant was engaged in the business of renting and/or leasing motorized vehicles during the period August 19, 1973 through January 27, 1981, and therefore considered a reseller for the purposes of the Subpart V crude oil refund proceeding. Because none of the applicants demonstrated that they were injured due to crude oil overcharges, they were ineligible for crude oil refund monies. Accordingly, the eight Applications were denied.

Refund Applications

The Office of Hearings and Appeals granted refunds to refund applicants in the following Decisions and Orders:

Name	Case No.	Date
Allen Richardson *et al*	RF272-73002	7/25/90
Atlantic Richfield Co./Gene Lobe Distributor, Inc. *et al.*	RF304-3277	7/24/90
Blackwell Land Co., Inc. *et al.*	RF272-65519	7/27/90
Cunningham Brick Co., Inc. *et al.*	RF272-74511	7/25/90
Exxon Corp./Myung Soo Kim *et al.*	RF307-2558	7/27/90
FFF Industries Liquidation Trust *et al.*	RF272-71085	7/25/90
Gulf Oil Corp:		
Coy Nutt Gulf Station	RF300-9038	
Coy W. Nutt's Southside Gulf.	RF300-9084	
West Main Gulf	RF300-10701	7/27/90
Gulf Oil Corp./Stew's Gulf Service *et al.*	RF300-8845	7/27/90
Jeff Richman *et al*	RF272-75003	7/27/90
Schuler Drilling Co., Inc. *et al.*	RF272-69503	7/25/90
Shell Oil Co./Hudson Valley Shell *et al.*	RF315-3606	7/26/90
Shell Oil Co./Transamerica Airlines, Inc. *et al.*	RF315-6325	7/24/90
Silvi Concrete Products, Inc. *et al.*	RF272-68010	7/25/90
Trexler Trucking, Inc. *et al.*	RF272-72508	7/25/90

Dismissals

The following submissions were dismissed:

Name	Case No.
Airways Arco	RF304-6829
Andy's Arco	RF304-6607

Name	Case No.
Atex Oil of Texas	RF304-11897
Barney R. Sockwell	RF307-6456
Board of County Commissioners, Nassau County.	RF272-74788
Bowman Transportation, Inc	RF307-8944
Campbell's Run Texaco	RF321-7622
Charles Ricker	RF307-5110
College Heights Exxon	RF307-8725
Cortez Gas Company	RF304-11715
Dick's Texaco *et al* (See Attached List).	RF321-5023
Dorchester Exxon	RF307-8782
Elizabeth Board of Education	RF272-77891
Frederick Interstate Exxon	RF307-9024
Jay's Gulf Service	RF300-8836
John Hassell, inc	RF307-8948
Jon-Ric, Ltd	RF272-70297
McClausland Rent-A-Car	RF272-70018
McIntyre & Snyder	RF321-3431
Munsterman Oil Co	RF315-281
Nu Way Distributing Co	RF300-6919
Simon Trucking	RF272-68531
Southern Counties Oil Co	RF304-5156
Southern Hosiery Mill, Inc	RF307-8947
St. Lukes Roosevelt Hospital Center.	RF272-33343
State of Texas	LFA-0058
Virginia Garden Exxon	RF307-8938
Williamsburg Exxon	RF307-8813

Service List

Case No. FR321-50232 *et al.*

FR321-5023
Dick's Texaco
c/o Charles Parrish
897 Whitaker Rd.
Belle Glade, FL 33430

FR321-5026
Covered Bridge Texaco
c/o Fred J. Violette
4153 Colle Dr.
Lake Worth, FL 33461

FR321-5029
Hiller's Texaco
c/o Paul Hiller
35 Geneva Rd.
Norwalk, CT 06850

FR321-5032
Lincoln Village Texaco
c/o Charles R. Burns
310 Inah Rd.
Columbus, OH 43228

FR321-5035
Bruce's Car Wash
c/o Bruce Blakeslee
740 South Meadow St.
Ithaca, NY 14850

FR321-5036
Summer St. Car and Rebuilders
c/o Ralph Courtemanche
123 Champaign
Gardener, MA 01440

FR321-5038
Interstate 40 Texaco
c/o R. Grant Buff
Rt. 2, Box 681
Valdese, NC 28690

FR321-5045
Jadon Texaco
c/o John Adamo
445 Rantoul St.
Beverly, MA 01915

FR321-5053
Bill's Eastside Texaco
c/o William Puccinelli
2105 Hayes St.
Anaconda, MT 59711

FR321-5054
Crossroads Texaco
c/o Preston Mitchell, Jr.
4289 Innsbrook Dr.
Lithonia, GA 30058

FR321-5058
Denny's Texaco
c/o Dennis Greene
640 N. 80 W. 1
Logan, UT 84321

FR321-5061
Park Hill Texaco #1
c/o Julius Ishide
10705 W. 85th Pl.
Arvada, CO 80005

FR321-5251
Matt's Texaco #1
c/o Matthew Deljanovan
4444 E. Benson Hwy. #84
Tucson, AZ 85706

FR321-5421
Al's Texaco Service
c/o George O. Hendrickson
9331 Chicago Ave.
Bloomington, MN 55420

FR321-5040
Hurrt's Texaco
c/o A.H. Hurrt
Rt. 3, Box 121X
Newberry, FL 32669

FR321-5571
Les and Lee's Texaco Service
c/o Leslie Witt
3246 Bilger Creek Rd.
Myrtle, OR 97457

FR321-5580
Denison's Texaco
c/o Bob Ledbetter
Rt. 2, Box 348L
Pottsboro, TX 75076

FR321-5649
South Main Texaco
c/o Gerald Wagner
P.O. Box 519
Paris, KY 40361

FR321-5887
B & L Texaco
c/o Mssrs. Lunderg and Brown
11 S. 100 West St.
Logan, UT 94321

FR321-5896
Southside Texaco
c/o Edgar Worts
Box 5541
Albany, GA 31706

FR321-6027
Fairview Texaco
c/o Larry Morgan
207 Palmer St.
Berwick, LA 70342

FR321-5563
Central Texaco
c/o Tokitoshi Yoneda
1558 Marquard Terrace
Santa Barbara, CA 93101

FR321-5578
Mullen's Texaco
c/o Geoffrey D. Wright
1460 NW 138th
Portland, OR 97229

FR321-5648
Trevino's Texaco
c/o Baldemar Trevino
5747 Corl St.
Houston, TX 77087

FR321-5650
Jay's Texaco
c/o J. Lee Cashion
Rt. 1, Box C-6
Hamlet, NC 28345

FR321-5890
Frank's Texaco
c/o Frank L. Marallo
4055 42nd Ave.
St. Petersburg, FL 33711

FR321-5932
Ken Young's Texaco
139 Tennessee Ave., N.E.
St. Petersburg, FL 33702

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except fedeeral holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: September 4, 1990.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 90-21281 Filed 9-10-90; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-44558; FRL 3800-9]

TSCA Chemical Testing; Receipt of Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the receipt of test data on 4-nonylphenol, (CAS No. 84852-15-3) submitted pursuant to a consent order under the Toxic Substances Control Act (TSCA). Publication of this notice is in compliance with section 4(d) of TSCA.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director,

Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543B, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: Under 40 CFR 790.60, all TSCA section 4 consent orders must contain a statement that results of testing conducted pursuant to the testing consent orders will be announced to the public in accordance with section 4(d).

I. Test Data Submissions

Test data for 4-nonylphenol were submitted by the Chemical Manufacturers Association on behalf of the test sponsors and pursuant to a consent order at 40 CFR 799.5000. They were received by EPA on August 21, 1990. The submissions describe the physical/chemical final reports for boiling point, crystallization point, instead of melting point, dissociation constant, water solubility and, vapor pressure. Chemical fate testing is required by this test rule. This chemical is used: (1) As an intermediate in the production of nonionic ethoxylated surfactants, (2) as a reactive intermediate in lube additives, formaldehyde resins, polymeric stabilizers and epoxy resins, and (3) in the manufacture of phosphate antioxidant, oil additives, synthetic lubricants and corrosion inhibitors.

EPA has initiated its review and evaluation process for these data submissions. At this time, the Agency is unable to provide any determination as to the completeness of the submissions.

II. Public Record

EPA has established a public record for this TSCA section 4(d) receipt of data notice (docket number OPTS-44558). This record includes copies of all studies reported in this notice. The record is available for inspection from 8 a.m. to noon, and from 1 p.m. to 4 p.m., Monday through Friday, except legal holidays, in the TSCA Public Docket Office, Rm. NE-G004, 401 M St., SW., Washington, DC 20460.

Authority: 15 U.S.C. 2601, 2603.

Dated: September 4, 1990.

Charles M. Auer,

Director, Existing Chemical Assessment Division, Office of Toxic Substances.

[FR Doc 90-21722 Filed 9-10-90; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL MARITIME COMMISSION

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 the 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 requirement 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: 224-200406.

Title: Maryland Port Administration/Maryland International Terminals/I.T.O. Corporation of Baltimore Terminal Agreement.

Parties:

Maryland Port Administration (MPA)
Maryland International Terminals (MIT)
I.T.O. Corportation of Baltimore (ITO)

Synopsis: The Agreement provides that MPA has appointed MIT to manage and direct operations and activities for gate, landside terminal operations, consolidated freight station (CFS) operations and related work at the Seagirt Marine Terminal in Baltimore. MIT, on a day to day basis will manage the contract with ITO and will exercise direction and management of the facility and CFS for MPA. The term of the Agreement is three years, with MPA having sole option to extend the term for one additional three year period. ITO shall comply with the invoice and payment process of the MPA Accounting Department.

Agreement No: 224-200409.

Title: Maryland Port Administration/Maryland International Terminals, Inc. Terminal Agreement.

Parties:

Maryland Port Administration (MPA)
Maryland International Terminals (MIT)

Synopsis: The Agreement provides for MIT to manage, operate and conduct the business of the Seagirt Marine Terminal and the Intermodal Container Transfer Facility. The initial term of this Agreement is 2 years, and may be renewed on a month to month basis for up to 4 additional years from the original termination date. The Agreement provides that MPA shall act as a payment agent and pay MIT expenses as incurred. MIT shall bill customer and then deposit all revenues from customer billings as directed by the MPA.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

Dated: September 6, 1990.

[FR Doc. 90-21239 Filed 9-10-90; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Barnett Banks, Inc.; Request for Exemption From Tying Provisions

Barnett Banks, Inc., Jacksonville, Florida, has requested, pursuant to section 106 of the Bank Holding Company Act Amendments of 1979 (12 U.S.C. 1970 *et seq.*) ("Section 106"), that the Board grant an exemption from the anti-tying provisions of section 106, in order to permit its credit card bank subsidiary, Barnett Card Services Bank, National Association, Jacksonville, Florida (Card Bank), to offer reduced annual fees and periodic interest rates on credit card accounts. This reduced consideration for credit card accounts would be available to customers who obtain one or more traditional banking services with Barnett's other subsidiary banks. Although section 106 permits a bank to fix or to vary the consideration for extending credit or furnishing services on condition that a customer also obtain a traditional banking service (loan, discount, deposit or trust service) from that bank, it prohibits a bank from engaging in these same activities on condition that the customer obtain any additional credit or services from any other subsidiary of the bank's parent bank holding company. The Board may grant, however, an exception that is not contrary to the purpose of this provision.

Barnett, with consolidated assets of $31.1 billion on June 30, 1990, is the largest banking organization in Florida. It operates 32 subsidiary banks in Florida and Georgia and engages directly and indirectly in a variety of permissible nonbanking activities. Barnett's credit card operations will be consolidated in Card Bank. Barnett proposes that Card Bank provide credit cards on advantageous terms to customers who obtain one or more traditional banking services with Barnett's other subsidiary banks. Accordingly, the variation in

consideration afforded by Card Bank under the special reduced-rate credit card program would be conditioned upon a customer obtaining additional banking services from Barnett's subsidiary banks, and would, therefore, be barred by the literal terms of Section 106 without exemption from the Board.

In support of its request for an exemption, Barnett cites the precedents of (a) The Board's June 20, 1990, order approving requests by Norwest Corporation and NCNB Corporation for an exemption to permit their banks to offer a credit card at lower cost in conjunction with traditional banking services provided by their other subsidiary banks; and (b) the notice of proposed rulemaking issued by the Board on June 22, 1990, proposing to amend § 225.4(d) of the Board's Regulation Y (12 CFR 225.4(d)) to permit a bank owned by a bank holding company to vary the consideration (including the interest rates and fees) charged in connection with extensions of credit pursuant to a credit card offered by the bank on the basis of the condition or requirement that a customer also obtain a traditional banking service from another bank subsidiary of the card-issuing bank's holding company. Barnett's subsidiary banks will continue to offer checking deposit services and credit cards separately.

Notice of the request is published solely in order to seek the views of interested persons on the issues presented by the request and does not represent a determination by the Board that the request meets or is likely to meet the standards of section 106. Any request for a hearing on this issue 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 the reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the request for exemption.

The request may be inspected at the offices of the Board of Governors. Any comments or requests for a hearing should be submitted in writing and received by William W. Wiles, Secretary of the Board of Governors of the Federal Reserve System, Washington, DC 20551 not later than October 11, 1990.

Board of Governors of the Federal Reserve System, September 5, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-21226 Filed 9-10-90; 8:45 am]

BILLING CODE 6210-01-M

Boyle Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application have been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than October 1, 1990.

A. **Federal Reserve Bank of St. Louis** (Randall C. Summer, Vice President), 411 Locust Street, St. Louis, Missouri 63166:

1. *Boyle Bancorp, Inc.*, Danville, Kentucky; to acquire 100 percent of the voting shares of Citizens Bank and Trust Company, Burgin, Kentucky.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President), 925 Grand Avenue, Kansas City, Missouri 64198:

1. *GSB Holding, Inc.*, Mangum, Oklahoma; to become a bank holding company by acquiring 95.4 percent of the voting shares of Guarantee State Bancshares, Inc., Mangum, Oklahoma, and thereby indirectly acquire Guarantee State Bank, Mangum, Oklahoma.

C. **Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *B & G Investment Company*, San Antonio, Texas; to become a bank holding company by acquiring 90 percent of the voting shares of First State Bank, Bandera, Texas.

2. *Greater Southwest Bancshares, Inc. Employee Stock Ownership Plan*, Irving, Texas; to become a bank holding company by acquiring 25.06 percent of the voting shares of Greater Southwest Bancshares, Inc., Irving, Texas, and thereby indirectly acquire Bank of the West, Irving, Texas.

Board of Governors of the Federal Reserve System, September 5, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-21222 Filed 9-10-90; 8:45 am]

BILLING CODE 6210-01-M

Alfred Lerner, et al.; Change in Bank Control; Acquisitions of Shares of Banks or Bank Holding Companies

The notifications listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than September 25, 1990.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President), 701 East Byrd Street, Richmond, Virginia 23261:

1. *Alfred Lerner*, Shaker Heights, Ohio; The Progressive Corporation, Mayfield Heights, Ohio; and The Maybaco Corporation, Baltimore, Maryland; to acquire at least 25.1 percent of the voting shares of MNC Financial, Inc., Baltimore, Maryland, and thereby indirectly acquire Maryland National Bank, Baltimore, Maryland; American Security Bank, National Association, Washington, D.C.; MBNA America, N.A., Newark, Delaware; and MBNA (Dover) Bank, Newark, Delaware.

Board of Governors of the Federal Reserve System, September 5, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-21223 Filed 9-10-90; 8:45 am]

BILLING CODE 6210-01-M

NCNB Corp.; Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 1, 1990.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *NCNB Corporation*, Charlotte, North Carolina; to engage *de novo* through NCNB Florida Federal Savings Bank, IV, Tampa, Florida, which would acquire two Hernando County, Florida, branches of American Savings and Loan Association, Miami, Florida, in owning and operating a savings and loan association pursuant to § 225.25(b)(9) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, September 5, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-21224 Filed 9-10-90; 8:45 am]

BILLING CODE 6210-01-M

National Penn Bancshares, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225-23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the reserve Bank indicated or the offices of the Board of Governors not later than October 1, 1990.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *National Penn Bancshares, Inc.*, Boyertown, Pennsylvania; to acquire Sellersville Savings and Loan Association, Perkasie, Pennsylvania, and thereby engage in owning, controlling, and operating a savings association engaged only in deposit taking activities and lending and other activities that are permissible for bank holding companies pursuant to § 225.25(b)(9) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, September 5, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-21225 Filed 9-10-90; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

[Docket No. C-3296]

TV Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Action

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, a Largo, Fla. advertiser of bee pollen products from misrepresenting that any advertisement is an independent program and not an advertisement, from claiming that bee pollen will not cause allergic reactions, and from representing that the product has been used as an effective allergy treatment or analgesic. Respondents are required, for a period of ten years, to present, at the beginning of any television advertisement that is fifteen minutes or more in length and prior to any ordering instructions, a disclosure statement that the program is a paid advertisement. In addition, respondents are required to have competent and reliable scientific evidence for all future claims concerning any product's effect on the user's health or physical condition.

DATES: Complaint and Order issued July 25, 1990.[1]

FOR FURTHER INFORMATION CONTACT: Brinley Williams, Federal Trade Commission, Cleveland Regional Office,

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue NW., Washington, DC 20580.

668 Euclid Avenue, Suite 520–A, Cleveland, Ohio 44114. (216) 522–4210.

SUPPLEMENTARY INFORMATION: On Tuesday, May 15, 1990, there was published in the **Federal Register**, 55 FR 20198, a proposed consent agreement with analysis In the Matter of TV Inc., et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisidictional findings and entered an order to cease and desist in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45, 52)

Donald S. Clark,

Secretary.

[FR Doc. 90–21268 Filed 9–10–90; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Public Information Collection Requirements Submitted to the Office of Management and Budget for Clearance

AGENCY: Health Care Financing Administration, HHS.

The Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposals for the collection of information in compliance with the Paperwork Reduction Act (Pub. L. 96–511).

1. *Type of Request:* Revision; *Title of Information Collection:* Health Insurance Claim Form and Instructions; *Form Numbers:* HCFA–1500, HCFA–1490S, and HCFA–1490U; *Use:* The forms are used to apply for payment for Medicare services covered under section 1861(s) of the Social Security Act. The data collected is used by Medicare carriers to determine the proper amount of payment for part B medical and other health services (as listed in section 1861(s) of the Social Security Act) provided by physicians and suppliers to beneficiaries. HCFA–1500 serves as a common claims form which can be used by other third part payors (commercial and non-profit health insurers) and other Federal programs, e.g. CHAMPUS, FWCP, FECA, RRB, and Medicaid; *Respondents:* Individuals or households, State or local governments businesses/other for profit, and small businesses/organizations; *Estimated Number of Responses:* Not applicable. *Average Hours per Response:* Not applicable; *Total Estimated Burden Hours;* Not applicable.

2. *Type of Request:* Extension; *Title of Information Collection:* Request for Medical Review Information for part B Outpatient Bills; *Form Numbers:* HCFA–9027; *Use:* Data collected is used by Medicare contractors to determine if billed services (provided by hospitals, skilled nursing facilities (SNFs), comprehensive rehabilitation facilities, rural health clinics, hospices, end-stage renal disease facilities, and Christian Science hospitals and SNFs) are payable in accordance with Medicare law, regulations and guidelines. *Frequency:* On occasion; *Respondents:* Businesses/other for profit and small businesses/organizations; *Estimated Number of Responses:* 4,649,835; *Average Hours per Response:* .5; *Total Estimated Burden Hours:* 2,324,917.

3. *Type of Request:* Extension; *Title of Information Collection:* Carrier Appeal Report; *Form Number:* HCFA–2590; *Use:* This data, collected from Medicare carriers, is used for administrative purposes such as determining carrier appeals workload, disposition of appeals, etc. *Frequency:* Monthly; *Respondents: Businesses/other for profit; Estimated Number of Responses:* 600; *Average Hours per Response:* 2; *Total Estimated Burden Hours: 1,200.*

4. *Type of Request:* New; *Title of Information Collection:* Information Collection Requirements in BPD–684, Medicare Geographical Classification Review Board (MGCRB) Procedures and Criteria; *Form Number:* HCFA–R–138; *Use:* These procedures and criteria govern the MGCRB and provides guidelines to use when considering hospitals' request for reclassification for either their wage index and/or standardized amount. *Frequency:* Annually; *Respondents:* Businesses/other for profit; non-profit institutions, and small businesses/organizations; *Estimated Number of Responses:* 182; *Average Hours per Response: 14.75; Total Estimated Burden Hours:*

Additional Information or Comments: Call the Reports Clearance Officer on 301–966–2088 for copies of the clearance request packages. Written comments and recommendations for the proposed information collections should be sent directly to the following address: OMB Reports Management Branch, Attention: Allison Herron, New Executive Office Building, room 3208, Washington, DC 20503.

Dated September 1, 1990.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

[FR Doc. 90–21264 Filed 9–10–90; 8:45 am]

BILLING CODE 4120–03–M

Privacy Act of 1974; Systems of Records

AGENCY: Department of Health and Human Services (HHS), Health Care Financing Administration (HCFA).

ACTION: Notice of proposed modification of existing systems of records and establishment of a new routine use.

SUMMARY: The Medicare Act at 42 U.S.C. 1395y(b) creates circumstances where the Medicare program no longer has primary liability for the medical expenses a beneficiary incurs. To enable HCFA to exchange information with other Federal agencies to conduct computer matches, we are proposing to add a new "routine use" to three of our systems of records as follows:

- "Carrier Medicare Claims Records," System No. 09–70–0501, HHS/HCFA/BPO
- "Health Insurance Master Record," System No. 09–70–0502, HHS/HCFA/BPO
- "Intermediary Claims Records," System No. 09–70–0503, HHS/HCFA/BPO

Note.—These systems were last published in the **Federal Register** at 54 FR 41505 (October 10, 1989).

Furthermore, we are adding additional information to existing routine uses.

EFFECTIVE DATE: This proposed notice will take effect without further notice 30 days from date of publication (October 11, 1990) unless comments received on or before that date warrant change.

ADDRESS: Please address comments to: Richard A. DeMeo, HCFA Privacy Act Officer, Health Care Financing Administration, room 108, Security Office Park Building, 7008 Security Boulevard, Baltimore, Maryland 21207.

FOR FURTHER INFORMATION CONTACT: Jackie Sheridan, Division of Operational Initiatives, 367 Meadows East Building, 6300 Security Boulevard, Baltimore, Maryland 21207, Telephone (301) 966–7449.

SUPPLEMENTARY INFORMATION: One of the priorities of HHS is to encourage high quality and effective health care while pursuing strategies to contain or moderate health care costs and Medicare program expenditures. One program that limits Medicare expenditures is the Medicare Secondary

Payer (MSP) provisions (42 U.S.C. 1395y(b)).

MSP situations are generally identified by Medicare carriers and intermediaries when a beneficiary submits a claim for payment. Actions taken subsequently may include denial of payment and the recovery of identified mistaken primary payments by HCFA which involves demonstrating to the other insurer or payer their primary liability under 42 U.S.C. 1395y(b)(1).

To enable HCFA and other entities required or responsible for payment to exchange information to determine primary or secondary responsibility for a Medicare beneficiary's health care expenses, we are proposing to do two things:

1. Add additional information to existing routine uses to the systems of records published in the **Federal Register** at 54 FR 41505 (October 10, 1986), as follows:

To administer the MSP provisions more effectively, HCFA may receive or disclose the following types of information from or to entities including insurers, underwriters, third party administrators (TPAs), and self-insured plans, concerning potentially affected individuals:

- Subscriber Health Insurance Claim Number
- Dependent Name
- Funding arrangements of employer group health plans, for example, contributory or non-contributory plan, self-insured, re-insured, HMO, TPA insurance
- Claims payment information, for example, the amount paid, the date of payment, the name of the insurer or payer
- Dates of employment including termination date, if appropriate
- Number of full and/or part-time employees in the current and preceding calendar years
- Employment status of subscriber, for example full or part time, self employed

Note.—The existing routine use numbers for these three systems are as follows:

- No. 09–70–0501 Routine use No. 24
- No. 09–70–0502 Routine use No. 16
- No. 09–70–0503 Routine use No. 22

2. Add a new "routine use" to all three systems as follows: To the Internal Revenue Service for the application of tax penalties against employers and employee organizations that contribute to Employer Group Health Plans or Large Group Health Plans that are not in compliance with 42 U.S.C. 1395y(b).

Note.—Routine use numbers for these three systems are as follows:

- No. 09–70–0501 Routine use No. 25
- No. 09–70–0502 Routine use No. 17
- No. 09–70–0503 Routine use No. 23

Section 6202 of the Omnibus Budget Reconciliation Act of 1989 (OBRA 1989) Pub. L. No. 101–239, focuses on MSP situations and requires a data match between the Social Security Administration and the Internal Revenue Service. The results of the data match are to be used by HCFA to identify potential MSP situations of Medicare beneficiaries and their employed spouses who have employer group health plan coverage that is primary to Medicare under 1395y(b)(1).

The Privacy Act allows us to disclose this information without a beneficiary's consent if the information is to be used for the purpose which is compatible with the reasons for collecting the information. We disclose information for "routine uses" when it is necessary to carry out our programs. We may also disclose information to Federal, State, local governments, or private agencies or individuals for purposes that are compatible with the reasons for collecting the information, when the benefit of that use outweighs the effect, or risk of an effect, on the privacy of individuals.

To comply with the technical requirements of the Privacy Act, HCFA is proposing to amend these three systems of records by adding the new routine use as described above. Release of this information is already a general condition of payment by the insurance industry. Additionally, all other entities with whom the data must be shared, will be required to agree in writing to protect the data from unauthorized access and use.

Because the addition of this new data and routine use will not change the purpose for which the information is to be used or otherwise significantly alter the system, this action does not require a report of altered system under 5 U.S.C. 552a(o).

For the convenience of the reader, we are republishing the three modified systems of records below in their entirety.

Dated: August 17, 1990.

Gail R. Wilsensky,

Administrator, Health Care Financing Administration.

09–70–0501

SYSTEM NAME:

Carrier Medicare Claims Records. HHS, HCFA, BPO.

SECURITY CLASSIFICATIONS:

None.

SYSTEM LOCATION:

Carriers under contract to the Health Care Financing Administration and the Social Security Administration (see Appendix A, Section 4)

Federal Records Centers.

Bureau of Quality Control, HCFA Office of Systems Analysis, 6325 Security Boulevard, Baltimore, Maryland 21207.

HHS Parklawn Computer Center, 5600 Fishers Lane, Rockville, Maryland 20857.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Beneficiaries who have submitted claims for Supplementary Medical Insurance (Medicare Part B), or are eligible, or individuals whose enrollment in an employer group health benefits plan covers the beneficiary.

CATEGORIES OF RECORDS IN THE SYSTEM:

Request for Payment: Provider Billing for Patent services by Physician; Prepayment Plan for Group Medicare Practices dealing through a Carrier, Health Insurance Claim Form, Request for Medical Payment, Patient's Request for Medicare Payment, Request for Medicare Payment—Ambulance, Explanation of Benefits, Summary Payment Voucher, Request for Claim Number Verification; Payment Record Transmittal; Statement of Person Regarding Medicare Payment for Medical Services Furnished Deceased Patient; Report of Prior Period of Entitlement; itemized bills and other similar documents from beneficiaries required to support payments to beneficiaries and to physicians and other suppliers of part B Medicare services; medicare secondary payer records containing other party liability insurance information necessary for appropriate Medicare claim payment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 1842, 1862(b) and 1874 of title XVIII of the Social Security Act (42 U.S.C. 1395u, 1395y(b) and 1395kk).

PURPOSE:

To properly pay medical insurance benefits to or on behalf of entitled beneficiaries.

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

Disclosure may be made to: (1) Claimants, their authorized representatives or representatives payees to the extent necessary to pursue claims made under Title XVIII of the Social Security Act (Medicare)

(2) Third-party contacts (without the consent of the individuals to whom the information pertains) in situations where the party to be contacted has, or

is expected to have information relating to the individual's capability to manage his or her affairs or to his or her eligibility for or entitlement to benefits under the Medicare program when:

(a) The individual is unable to provide the information being sought (an individual is considered to be unable to provide certain types of information when any of the following conditions exist: individual is incapable or of questionable mental capability, cannot read or write, cannot afford the cost of obtaining the information, a language barrier exists, or the custodian of the information will not, as a matter of policy, provide it to the individual), or

(b) The data are needed to establish the validity of evidence or to verify the accuracy of information presented by the individual, and it concerns one or more of the following: the individual's eligibility to benefits under the Medicare program; the amount of reimbursement; any case in which the evidence is being reviewed as a result of suspected abuse or fraud, concern for program integrity, or for quality appraisal, or evaluation and measurement of system activities.

(3) Third-party contacts where necessary to establish or verify information provided by representative payees or payee applicants.

(4) The Treasury Department for investigating alleged theft, forgery, or unlawful negotiation of Medicare reimbursement checks.

(5) The U.S. Postal Service for investigating alleged forgery or theft of Medicare checks.

(6) The Department of Justice for investigating and prosecuting violations of the Social Security Act to which criminal penalties attach, or other criminal statutes as they pertain to the Social Security Act programs, for representing the Secretary, and for investigating issues of fraud by agency officers or employees, or violation of civil rights.

(7) The Railroad Retirement Board for administering provisions of the Railroad Retirement and Social Security Acts relating to railroad employment.

(8) Professional Review Organizations in connection with their review of claims, or in connection with studies or other review activities, conducted pursuant to Part B of Title XI of the Social Security Act.

(9) State Licensing Boards for review of unethical practices of nonprofessional conduct.

(10) Providers and suppliers of services (and their authorized billing agents) directly or dealing through fiscal intermediaries or carriers, for administration of provisions of title XVIII.

(11) An individual or organization for a research, evaluation, or epidemiological project related to the prevention of disease or disability, or the restoration or maintenance of health if HCFA:

a. Determines that the use of disclosure does not violate legal limitations under which the record was provided, collected, or obtained:

b. Determines that the purpose for which the disclosure is to be made:

(1) Cannot be reasonably accomplished unless the record is provided in individually identifiable form.

(2) Is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring, and

(3) There is reasonable probability that the objective for the use would be accomplished:

(c) Requires the information recipient to:

(1) Establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and

(2) Remove or destroy the information that allows the individual to be identified at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the project, unless the recipient presents an adequate justification of a research or health nature for retaining such information, and

(3) Make no further use or disclosure of the record except:

(a) In emergency circumstances affecting the health or safety of any individual.

(b) For use in another research project, under these same conditions, and with written authorization of HCFA.

(c) For disclosure to a properly identified person for the purpose of audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or

(d) When required by law:

d. Secures a written statement attesting to the information recipient's understanding of and willingness to abide by these provisions.

(12) State welfare departments pursuant to agreements with the Department of Health and Human Services for administration of State supplementation payments for determinations of eligibility for Medicaid, for enrollment of welfare recipients for medical insurance under section 1843 of the Social Security Act, for quality control studies, for determining eligibility of recipients of assistance under titles IV and XIX of the Social Security Act, and for the complete administration of the Medicaid program.

(13) A congressional office from the record of an individual in response to an inquiry from the congressional office at the request of that individual.

(14) State audit agencies in connection with the audit of Medicare eligibility considerations. Disclosures of physicians' customary charge data are made to State audit agencies in order to ascertain the correctness of Title XIX charges and payments.

(15) The Department of Justice to a court or other tribunal, or to another party before such tribunal, when

(a) HHS, or any component thereon; or

(b) Any HHS employee in his or her official capacity; or

(c) Any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or

(d) The United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the tribunal, or the other party is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

(16) Peer review groups, consisting of members of State, County, or local medical societies or medical care foundations (physicians), appointed by the medical society or foundation at the request of the carrier to assit in the resolution of questions of medical necessity, utilization of particular procedures or practices, or overutilization of services with respect to Medicare claims submitted to the carrier.

(17) Physicians and other supplies of services who are attempting to validate individual items on which the amounts include in the annual Physician/Supplier Payment List or similar publications are based.

(18) Senior citizen volunteers working in intermediaries' and carriers' offices to assist Medicare beneficiaries in response to beneficiaries' requests for assistance.

(19) A contractor working with Medicare carriers/intermediaries to identify and recover erroneous Medicare payments for which workers' compensation programs are liable.

(20) State and other governmental Workers' Compensation Agencies working with the Health Care Financing Administration to assure that workers' compensation payments are made where Medicare has erroneously paid and workers' compensation programs are liable.

(21) Release information, without the beneficiary's authorization, to insurance companies, self-insurers, Health Maintenance Organizations, multiple employer trusts and other groups providing protection against medical expenses of their enrollees. Information to be disclosed shall be limited to Medicare entitlements data. In order to receive the information the entity must agree to the following conditions:

a. To certify that the individual on whom the information is being provided is one of its insureds;

b. To utilize the information solely for the purpose of processing the identified individual's insurance claims; and

c. To safeguard the confidentiality of the data and to prevent unauthorized access to it.

(22) To a contractor for the purpose of collating, analyzing, aggregating or otherwise refining or processing records in this system or for developing, modifying and/or manipulating ADP software. Data would also be disclosed to contractors incidental to consultation, programming, operation, user assistance, or maintenance of ADP or telecommunications systems containing or supporting records in the system.

(23) To an agency of a State Government, or established by State law, for purposes of determining, evaluating and/or assessing cost, effectiveness, and/or the quality of health care services provided in the State, if HCFA:

a. Determines that the use of disclosure does not violate legal limitations under which the data were provided, collected, or obtained;

b. Establishes that the data are exempt from disclosure under the State and/or local Freedom of Information Act;

c. Determines that the purpose for which the disclosure is to be made:

(1) Cannot reasonably be accomplished unless the data are provided in individually identifiable form;

(2) Is of sufficient importance to warrant the effect and/or risk on the privacy of the individuals that additional exposure of the record might bring, and;

(3) There is reasonable probability that the objective for the use would be accomplished; and

d. Requires the recipient to:

(1) Establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record;

(2) Remove or destroy the information that allows the individual to be identified at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the request, unless the recipient presents an adequate justification for retaining such information;

(3) Make no further use or disclosure of the record except:

(a) In emergency circumstances affecting the health or safety of any individual;

(b) For use in another project under the same conditions, and with written authorization of HCFA;

(c) For disclosure to a properly identified person for the purpose of an audit related to the project, if information that would enable project subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or

(d) When required by the law; and

(4) Secure a written statement attesting to the recipient's understanding of and willingness to abide by these provisions. The recipient must agree to the following:

(1) Not to use the data for purposes that are not related to the evaluation of cost, quality and effectiveness of care;

(2) Not to publish or otherwise disclose the data in a form raising unacceptable possibilities that beneficiaries could be identified (i.e., the data must not be beneficiary-specific and must be aggregated to a level when no data cells have ten or fewer beneficiaries); and

(3) To submit a copy of any aggregation of the data intended for publication to HCFA for approval prior to publication.

(24) To insurers, underwriters, third party administrators, self-insurers, group health plans, employers, health maintenance organizations, health and welfare benefit funds, Federal agencies, a State or local government or political subdivision of either (when the organization has assumed the role of an insurer, underwriter, or third party administrator, or in the case of a State that assumes the liabilities of an insolvent insurer, through a State created insolvent insurer pool or fund), multiple-employer trusts, no-fault, medical, automobile insurers, workers' compensation carriers or plans, liability insurers, and other groups providing protection against medical expenses who are primary payers to Medicare in accordance with 42 U.S.C. 1395y(b), or any entity having knowledge of the occurrence of any event affecting (A) an individual's right to any such benefit or payment, or (B) the initial or continued right to any such benefit or payment (for example, a State Medicaid Agency, State Workers' Compensation Board, or Department of Motor Vehicles) for the purpose of coordination of benefits with the Medicare program and implementation of the Medicare Secondary Payer provisions at 42 U.S.C. 1395y(b). The information HCFA may disclose will be:

- Beneficiary Name
- Beneficiary Address
- Beneficiary Health Insurance Claim Number
- Beneficiary Social Security Number
- Beneficiary Sex
- Beneficiary Date of Birth
- Amount of Medicare Conditional Payment

To administer the Medicare Secondary payer provisions at 42 U.S.C. 1395y(b) (2), (3), (4) more effectively, HCFA would receive (to the extent that it is available) and may disclose the following types of information from insurers, underwriters, third party administrators, self-insureds, etc.:

- Subscriber Name and Address
- Subscriber Date of Birth
- Subscriber Social Security Number
- Dependent Name
- Dependent Date of Birth
- Dependent Social Security Number
- Dependent Relationship to Subscriber
- Insurer/Underwriter/TPA Name and Address
- Insurer/Underwriter/TPA Group Number
- Insurer/Underwriter/TPA Group Name
- Prescription Drug Coverage
- Policy Number
- Effective Date of Coverage
- Employer Name, Employer Identification Number (EIN) and Address
- Employment Status
- Amounts of Payment

To administer the Medicare Secondary payer provision at 42 U.S.C. 1395y(b)(1) more effectively for entities such as Workers Compensation carriers or boards, liability insurers, no-fault and automobile medical policies or plans, HCFA would receive (to the extent that it is available) and may disclose the following information:

- Beneficiary's Name and Address
- Beneficiary's Date of Birth
- Beneficiary's Social Security Number*
- Name of Insured*

• Insurer Name and Address
• Type of coverage; automobile medical, no-fault, liability payment, or workers' compensation settlement
• Insured's Policy Number
• Effective Date of Coverage
• Date of accident, injury or illness
• Amount of payment under liability, no-fault, or automobile medical policies, plans, and workers compensation settlements.
• Employer Name and Address (Workers' Compensation only)
• Name of insured could be the driver of the car, a business, the beneficiary (i.e., the name of the individual or entity which carries the insurance policy or plan)

In order to receive this information the entity must agree to the following conditions:

a. To utilize the information solely for the purpose of coordination of benefits with the Medicare program in accordance with 42 U.S.C. 1395y(b);

b. To safeguard the confidentiality of the data and to prevent unauthorized access to it;

c. To prohibit the use of beneficiary-specific data for purposes other than for the coordination of benefits between the recipient organization and the Medicare program. The agreement would allow the entities to use the information to determine cases where they have primary responsibility for payment or cases where Medicare has primary responsibility for payment. Examples of prohibited uses would include but are not limited to: Creation of a mailing list, sale or transfer of data.

—To administer the MSP provisions more effectively, HCFA may receive or disclose the following types of information from or to entities including insurers, underwriters, third party administrators (TPAs), and self-insured plans, concerning potentially affected individuals:

• Subscriber Health Insurance Claim Number
• Dependent Name
• Funding arrangements of employer group health plans, for example, contributory or non-contributory plan, self-insured, re-insured, HMO, TPA insurance
• Claims payment information, for example, the amount paid, the date of payment, the name of the insurer or payer
• Dates of employment including termination date, if appropriate
• Number of full and/or part-time employees in the current and preceding calendar years
• Employment status of subscriber, for example full or part time, self employed

(25) To the Internal Revenue Service for the application of tax penalties against employers and employee organizations that contribute to Employer Group Health Plans or Large Group Health Plans that are not in compliance with 42 U.S.C. 1395y(b).

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

STORAGE:

Records maintained on paper, tape, disc, and punchcards.

RETRIEVABILITY:

System is indexed by health insurance claim number. The record is prepared by the beneficiary and is used by carriers to determine amount of Part B benefits. The bills are retained by the carriers.

SAFEGUARDS:

Unauthorized personnel are denied access to the records area. Disclosure is limited. Physical safeguards related to the transmission and reception of data between Rockville and Baltimore are those requirements established by the DHHS ADP Systems Manual, Part 6.

RETENTION AND DISPOSAL:

Records are closed at the end of the calendar year in which paid, held two additional years, transferred to Federal Records Center and destroyed after another 2 years.

SYSTEM MANAGER(S) AND ADDRESS:

Health Care Financing Administration, Bureau of Program Operations, Director, Division of Carrier Procedures, 6325 Security Boulevard, Baltimore, Md 21207.

NOTIFICATION PROCEDURE:

Inquiries and requests for system records should be addressed to the most convenient social security office, the appropriate carrier, the HCFA Regional Office, or to the system manager named above. The individual should furnish his or her health insurance claim number and the name as shown on social security records. An individual who requests notification of or access to a medical record shall at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its content at the representative's discretion.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the records content being sought.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. State the corrective action sought and the reasons for the correction with supporting justification.

RECORD SOURCE CATEGORIES:

The data contained in these records is either furnished by the individual or, in the case of some Medicare secondary payer situations, through third party contacts. In most cases, the identifying information is provided to the physician by the individual. The physician then adds the medical information and submits the bill to the carrier for payment.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix A—Medicare Carriers

Medicare Coordinator, Blue Cross and Blue Shield of Alabama, 450 Riverchase Parkway East, Birmingham, Alabama 35298
Vice President for Medicare and Medical Services, Arkansas Blue Cross and Blue Shield, Inc., 601 Gains Street, Little Rock, Arkansas 72203
Medicare Coordinator, California Physicians Service, (d/b/a/ Blue Sheid of California), P.O. Box 7013, No. 2 Northpoint, San Francisco, California 94120
Medicare Coordinator, Transamerica Occidential Life Insurance Company, P.O. Box 54905 Terminal Annex, Los Angeles, California 90054
Assistant Vice President, Rock Mountain Hospital and Medical Service, (d/b/a Blue Cross and Blue Shield of Colorado), 700 Broadway, Denver, Colorado 80273
Medicare Administrator, Travelers Ins. Co., One Tower Square, Hartford, Connecticut 06183
Medicare Administrator, Aetna Life & Casualty, 151 Farmington Avenue, Hartford, Connecticut 06158
Medicare Coordinator, Blue Cross and Blue Shield of Florida, Inc., P.O. Box 1798, Jacksonville, Florida 32231
Health Care Service Corporation, 233 North Michigan Avenue, Chicago, Illinois 60601
Associated Insurance Companies, Inc., (d/b/a Blue Cross and Blue Shield of Indiana), 8320 Craig Street, Suite 10, Indianapolis, Indiana 46250–0453
Assistant Executive Director, Blue Shield of Iowa, Ruan Building 636 Grand Avenue Station 28, Des Moines, Iowa 50309
Medicare Assistant, Blue Cross and Blue Shield of Kansas, Inc., P.O. Box 239, Topeka, Kansas 66601
Blue Cross and Blue Shield of Kentucky, Inc., 100 East Vine Street, 6th Floor, Lexington, Kentucky 40517
Medicare Coordinator, Blue Cross and Blue Shield of Maryland, Inc., 700 E. Joppa Road, Baltimore, Maryland 21204
Medicare Coordinator Part B, Blue Shield of Massachusetts, Inc., 100 Summer Street, Boston, Massachusetts 02110
Assistant Vice President Government, Affairs Department, Blue Cross and Blue Shield of Michigan, 600 Lafayette East, Detroit, Michigan 48226
Blue Cross and Blue Shield of Minnesota, P.O. Box 64357, 3535 Blue Cross Road, St. Paul, Minnesota 55164

Vice President Government Programs, Blue Cross and Blue Shield of Kansas City, P.O. Box 169, Kansas City, Missouri 64141
Director, Medicare Administration, General American Life Insurance Co., P.O. Box 505, St. Louis, Missouri 63166
Blue Cross and Blue Shield of Montana, Inc., P.O. Box 4309, 404 Fuller Avenue, Helena, Montana 59601
Medicare Coordinator, Prudential Insurance Co. of America, Tri-City Office Drawer 471, Millville, New Jersey 08332
Director of Medicare Part B, Blue Shield of Western New York, Inc., 296 Main Street, Buffalo, New York 14202
Medicare Coordinator, Group Health Insurance, Inc., 300 West 42nd Street, New York, New York 20036
Medicare Coordinator, Empire Blue Cross and Bule Shield, 622 Third Avenue, New York, New York 10017
Medicare Coordinator, EQUICOR, Inc., 1285 Avenue of the Americas, New York, New York 10019
Medicare Coordinator, Blue Cross and Blue Shield of North Dakota, 4510 13th Avenue, S.W., Fargo, North Dakota 58121
Medicare System and Processing Division, Nationwide Mutual Insurance Company, P.O. Box 16788, Columbus, Ohio 43216
Medicare Coordinator, Pennsylvania Blue Shield, P.O. Box 65, Camp Hill, Pennsylvania 17011
Chief, Internal Operations, Sequros de Servico de Salud de Puerto Rico, Inc., G.P.O. Box 3628, San Juan, Puerto Rico, 00936–3628
Medicare Coordinator, Blue Cross and Blue Shield of Rhode Island, 444 Westminster Mall, Providence, Rhode Island 02901
Medicare Coordinator, Blue Cross and Blue Shield of South Carolina, Fontaine Business Center, 300 Arbor Lake Drive, Suite 1300, Columbia, South Carolina 29223
Blue Cross and Blue Shield of Texas, Inc., 901 South Central Expressway, P.O. Box 833815, Richardson, Texas 75083–3815
Manager, Part B, Blue Cross and Blue Shield of Utah, P.O. Box 30270, 2455 Parley's Way, Salt Lake City, Utah 84130
Assistant Administrator, Washington Physicians Service, 4th and Battery Building, 2401 4th Avenue, 6th Floor, Seattle, Washington 98121
Director, Medicare Claims Department, Wisconsin Physicians' Service Insurance, Corp., 1717 West Broadway, Monona, Wisconsin 54713

09–70–0502

SYSTEM NAME:

Health Insurance Master Record. HHS/HCFA/BPO.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Health Care Financing Administration Bureau of Data Management and Strategy, 6325 Security Blvd., Baltimore, Md. 21207.

Federal Records Centers

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals age 65 or over who have been, or currently are, entitled to health insurance (Medicare) benefits under title XVIII of the Social Security Act; individuals under age 65 who have been, or currently are, entitled to such benefits on the basis of having been entitled for not less than 24 months to disability benefits under title II of the Act or under the Railroad Retirement Act and individuals who have been or currently are, entitled to such benefits because they have end-stage renal disease; or individuals whose enrollment in an employer group health benefits plan covers the beneficiary.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains information on enrollment, entitlement, utilization, query and reply activity, health insurance bill and payment record processing workers' compensation entitlement information, and entitlement information from the Veterans Administration (VA), Health Insurance Master Record maintenance, and Medicare secondary payer records containing other party liability insurance information necessary for appropriate Medicare claim payment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 1814, 1833 and 1862(b) of title XVIII of the Social Security Act (42 U.S.C. 1396f, 1395l and 1395y(b)).

PURPOSE(S):

To maintain information Medicare beneficiary eligibility and costs in order to reply to inquires from contractors and intermediaries and to maintain utilization data for health insurance bill and payment record processing.

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

Disclosure may be made to: (1) The Railroad Retirement Board for administering provisions of the Railroad Retirement and Social Security Act relating to railroad employment.

(2) State Welfare Department pursuant to agreements with the Department of Health and Human Services for determining Medicaid and Medicare eligibility for quality control studies, for determining eligibility of recipients of assistance under title IV, XVIII, and XIX of the Social Security Act, and for the complete administration of the Medicaid program.

(3) State audit agencies for auditing State Medicaid eligibility considerations.

(4) Providers and suppliers of services directly or dealing through fiscal intermediaries or carriers for administration of title XVIII.

(5) A congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

(6) An individual or organization for a research, evaluation, or epidemiological project related to the prevention of disease or disability, or the restoration or maintenance of health if HCFA:

a. Determine that the use of disclosure does not violate legal limitations under which the record was provided, collected, or obtained;

b. Determines that the purpose of which the disclosure is to be made:

(1) Cannot be reasonably accomplished unless the record is provided in individually identifiable form;

(2) Is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring, and

(3) There is reasonable probability that the objective for the use would be accomplished;

c. Requires the information recipient to:

(1) Establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and

(2) Remove or destroy the information that allows the individual to be identified at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the project, unless the recipient presents an adequate justification of a research or health nature for retaining such information, and

(3) Make no further use or disclosure of the record except:

(a) In emergency circumstances affecting the health or safety of any individual.

(b) For use in another research project, under these same conditions, and with written authorization of HCFA.

(c) For disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or

(d) When required by law:

d. Secures a written statement attesting to the information recipient(s) understanding of and willingness to abide by these provisions.

(7) The Department of Justice, to a court or other tribunal, or to another party before such tribunal, when:

(a) HHS, or any component thereof; or

(b) Any HHS employee in his or her official capacity; or

(c) Any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or

(d) The United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest is such litigation, and HHS determines that the use of such records by the Department of Justice, the tribunal, or the other party is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

(8) To a contractor when the Department contracts with a private firm for the purpose of collating, analyzing, aggregating, or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

(9) State welfare agencies that require access to the two files which are extracted from the Health Insurance Master Record. These files are the Carrier Alphabetical State File (CASF) and Beneficiary State File (BEST). Most State agencies require access to the CASF and BEST file for improved administration of the Medicaid program. Routine uses of the CASF and BEST files for State agencies are: (A) Obtaining a beneficiary's correct health insurance claim number and (b) screening of prepayment and post-payment Medicaid claims.

(10) Third-party contacts (without the consent of the individual to whom the information pertains) in situations where the party to be contacted has, or is expected to have information relating to the individual's capability to manage his or her affairs or to his or her eligiblity for an entitlement to benefits under the Medicare program when:

(a) The individual is unable to provide the information being sought (an individual is considered to be unable to provide certain types of information when any of the following conditions exist: Individuals is incapable or of questionable mental capability, cannot read or write, cannot afford the cost of obtaining the information, a language barrier exists, or the custodian of the information will not, as a matter of policy, provide it to the individual): or

(b) The data are needed to establish the validity of evidence or to verify the accuracy of information presented by the individual, and it concerns one or more of the following: the individual's eligibility to benefits under the Medicare program; the amount of reimbursement; any case in which the evidence is being reviewed as a result of suspected abuse or fraud, concern for program integrity, or for quality appraisal, or evaluation and measurement of system activities.

(11) Release information, without the beneficairy's authorization, to insurance companies, self-insurers, Health Maintenance Organizations, multiple employer trusts and other groups providing protection against medical expenses of their enrollees. Information to be disclosed shall be limited to Medicare entitlement data. In order to receive this information the entity must agree to the following conditions:

a. To certify that the individual about whom the information is being provided is one of its insureds:

b. To utilize the information solely for the purpose of processing the identified individual's insurance claims; and

c. To safeguard the confidentiality of the data and to prevent unauthorized access to it.

(12) To a contractor for the purpose of collating, analyzing, aggregating or otherwise refining or processing records in this system or for developing, modifying and/or manipulating ADP software. Data would also be disclosed to contractors, incidental to consultation, programming, operation, user assistance, or maintenance for ADP or telecommunications systems containing or supporting records in the system.

(13) To an agency of a State Government, or established by State law, for purposes of determining, evaluating and/or assessing cost, effectiveness, and/or the quality of health care services provided in the State, if HCFA:

a. Determine that the use or disclosure does not violate legal limitations under which the data were provided, collected, or obtained:

b. Establishes that the data are exempt from disclosure under the State and/or local Freedom of Information Act;

c. Determines that the purpose for which the disclosure is to be made:

(1) Cannot reasonably be accomplished unless the data are provided in individually identifiable form;

(2) Is of sufficient importance to warrant the effect and/or risk on the privacy of the individuals that additional exposure of the record might bring, and;

(3) There is reasonable probability that the objective for the use would be accomplished; and

d. Requires the recipient to:

(1) Establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record;

(2) Remove or destroy the information that allows the individual to be identified at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the request, unless the recipient presents an adequate justification for retaining such information:

(3) Make no further use or disclosure of the record except;

(a) In emergency circumstances affecting the health or safety of any individual;

(b) For use in another project under the same conditions, and with written authorization of HCFA;

(c) For disclosure to a properly identified person for the purpose of an audit related to the project, if information that would enable project subject to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or

(d) When required by law; and

(4) Secure a written statement attesting to the recipient's understanding of a willingness to abide by these provisions. The recipient must agree to the following:

(1) Not to use the date for purposes that are not related to the evaluation of cost, quality, and effectiveness of care;

(2) Not to publish or otherwise disclose the data in a form raising unacceptable possibilities that beneficiaries could be identified (i.e., the data must not be beneficiary-specific and must be aggregated to a level when no data cells have ten or fewer beneficiaries); and

(3) To submit a copy of any aggregation of the data intended for publication to HCFA for approval prior to publication.

(14) To a group health plan (i.e., health maintenance organization (HMO), or a competitive medical plans (CMP) with a Medicare contract, or a Medicare-approved health care prepayment plan (HCPP), directly or through a contractor on a case-by-case basis for the purpose of determining the eligibility of a Medicare beneficiary to enroll in the

group health plan. Group health plans will have access only to one record at a time and only through a CRT terminal. A password must be entered to gain access to the file. Both the beneficiary name and the Health Insurance Claim number must be entered to access individual records within the file. The information disclosed will be the minimum necessary to determine eligibility for enrollment.

(15) To a contractor when HCFA contracts with a private firm for the purpose of refining or otherwise processing data and disclosing such data to group health plans consistent with routine use No. 14. The contractor will be required to safeguard the confidentiality of the data and prevent unauthorized use or disclosure.

(16) To insurers, underwriters, third party administrators, self-insurers, group health plans, employers, health maintenance organizations, health and welfare benefit funds. Federal agencies, a State or local government or political subdivision of either (when the organization has assumed the role of an insurer, underwriter, or third party administrator, or in the case of a State that assumes the liabilities of an insolvent insurer, through a State created insolvent insurer pool or fund), multiple-employer trusts, no-fault, medical, automobile insurers, workers' compensation carriers or plans, liability insurers, and other groups providing protection against medical expenses who are primary payers to Medicare in accordance with 42 U.S.C. 1395y(b), or any entity having knowledge of the occurrence of any event affecting (A) an individual's right to any such benefit or payment, or (B) the initial or continued right to any such benefit or payment (for example, a State Medicaid Agency, State Workers' Compensation Board, or Department of Motor Vehicles) for the purpose of coordination of benefits with the Medicare program and implementation of the Medicare Secondary Payer provisions at 42 U.S.C. 1395y(b). The information HCFA may disclose will be:

- Beneficiary Name
- Beneficiary Address
- Beneficiary Health Insurance Claim Number
- Beneficiary Social Security Number
- Beneficiary Sex
- Beneficiary Date of Birth
- Amount of Medicare Conditional Payment

To administer the Medicare Secondary payer provisions at 42 U.S.C. 1395y(b) (2), (3), (4) more effectively, HCFA would receive (to the extent that it is available) and may disclose the following types of information from insurers, underwriters, third party administrators, self-insureds, etc.:

- Subscriber Name and Address
- Subscriber Date of Birth
- Subscriber Social Security Number
- Dependent Name
- Dependent Date of Birth
- Dependent Social Security Number
- Dependent Relationship to Subscriber
- Insurer/Underwriter/TPA Name and Address
- Insurer/Underwriter/TPA Group Number
- Insurer/Underwriter/TPA Group Name
- Prescription Drug Coverage
- Policy Number
- Effective Date of Coverage
- Employer Name, Employer Identification Number (EIN) and Address
- Employment Status
- Amounts of Payment

To administer the Medicare Secondary payer provision at 42 U.S.C. 1395y(b)(1) more effectively for entities such as Workers Compensation carriers or boards, liability insurers, no-fault and automobile medical policies or plans, HCFA would receive (to the extent that it is available) and may disclose the following information:

- Beneficiary's Name and Address
- Beneficiary's Date of Birth
- Beneficiary's Social Security Number
- Name of Insured
- Insurer Name and Address
- Type of covereage: automobile medical, no-fault, liability payment, or workers' compensation settlement
- Insured's Policy Number
- Effective Date of Coverage
- Date of accident, injury or illness
- Amount of payment under liability, no-fault, or automobile medical policies, plans, and workers' compensation settlements
- employer Name and Address (Workers' Compensation only)
- name of insured could be the driver of the car, a business, the beneficiary (i.e., the name of the individual or entity which carries the insurance policy or plan).

In order to receive this information the entity must agree to the following conditions:

1a. To utilize the information solely for the purpose of coordination of benefits with the Medicare program in accordance with 42 U.S.C. 1395y(b);

b. To safeguard the confidentiality of the data and to prevent unauthorized access to it;

c. To prohibit the use of beneficiary-specific data for purposes other than for the coordination of benefits between the recipient organization and the Medicare program. The agreement would allow the entities to use the information to determine cases where they have primary responsibility for payment or cases where Medicare has primary responsibility for payment. Examples of prohibited uses would include but are not limited to: Creation of a mailing list sale or transfer of data.

—To administer the MSP provisions more effectively, HCFA may receive or disclose the following types of information from or to entities including insurers, underwriters, third party administrators (TPAs), and self-insured plans, concerning potentially affected individuals:

- Subscriber Health Insurance Claim Number
- Dependent Name
- Funding arrangements of employer group health plans, for example, contributory or non-contributory plan, self-insured, re-insured, HMO, TPA insurance
- Claims payment information, for example, the amount paid, the date of payment, the name of the insurer or payer
- Dates of employment including termination date, if appropriate
- Number of full and/or part-time employees in the current and preceding calendar years
- Employment status of subscriber, for example full or part time, self employed

(17) To the Internal Revenue Service for the application of tax penalties against employers and employee organizations that contribute to Employer Group Health Plans or Large Group Health Plans that are not in compliance with 42 U.S.C. 4395y(b).

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

STORAGE:

Records maintained on paper, listings, microfilm, magnetic tape disc and punchcards.

RETRIEVABILITY:

System is sequence by health insurance claim number, and is used to carry out the tasks of enrollment query/reply activity, and health insurance bill and payment record processings. Copies of selected parts of the records will be used by the Office of Statistics and Data Management.

SAFEGUARDS:

Unauthorized personnel are denied access to the records areas. Disclosure is limited to routine use. For computerized records electronically transmitted between Central Office and field office locations (including Medicare contractors) systems securities are established in accordance with DHHS ADP Systems Manual. Part 6, "ADP Systems Security." Safeguards include a lock/unlock passwords system, exclusive use of leased telephone lines, a terminal oriented transaction matrix, and audit trail.

RETENTION AND DISPOSAL:

Records are generally added to the file several months prior to entitlement. After the death of a beneficiary, his or her records may be placed in an inactive file following a period of no billing or query activity. The current 5 years of part B and current 5 spells of part A utilization data are maintained. All noncurrent data is microfilmed prior to elimination from the system.

SYSTEM MANAGER(S) AND ADDRESS:

Health Care Financing Administration, Bureau of Program Operations, Director, Division of Entitlement Requirements, 6325 Security Boulevard, Baltimore, MD 21207.

NOTIFICATION PROCEDURE:

Inquiries and requests for system records should be addressed to the most conventional social security office, the appropriate carrier or intermediary, the HCFA Regional Office, or the system manager named above. The individual should furnish his or her health insurance claim number and name as shown on Medicare records.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR 5b.5(a)(2).))

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. State the corrective action sought and the reasons for the correction with supporting justification. (These procedures are in accordance with Department Regulations (45 CFR 5b.7)).

RECORD SOURCE CATEGORIES:

The data contained in these records are furnished by the individual, or in the case of some Medicare secondary payer situations, through third party contacts. There are cases, however, in which the identifying information is provided to the physician by the individual; the physician then adds the medical information and submits the bill to the carrier for payment. Updating information is also obtained from the Master Beneficiary Record.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

90-70-0503

SYSTEM NAME:

Intermediary Medicare Claims Records, HHS, HCFA, BPO.

SECURITY CLASSIFICATIONS:

None.

SYSTEM LOCATION:

Intermediaries under contract to the Health Care Financing Administration and the Social Security Administration (See Appendix A, Section 3.)

Federal Records Centers

Bureau of Quality Control, HCFA, Office of Systems Analysis, 6325 Security Boulevard, Baltimore, Maryland, HHS Parklawn Computer Center, 5600 Fishers Lane, Rockville, Maryland 20857.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Beneficiaries on whose behalf providers have submitted claims for reimbursement on a reasonable cost basis under Medicare parts A and B, or are eligible, or individuals whose enrollment in an employer group health benefits plan covers the beneficiary.

CATEGORIES OF RECORDS IN THE SYSTEM:

Billing for Medical and Other Health Services: Uniform bill for provider services or equivalent data in electronic format, and Medicare secondary payer records containing other party liability insurance information necessary for appropriate Medicare claims payment and other documents used to support payments to beneficiaries and providers of services. These forms contain the beneficiary's name, sex, health insurance claim number, address, date of birth, medical record number, prior stay information, provider name and address, physician's name, and/or identification number, warranty information when pacemakers are implanted or expianted, date of admission and discharge, other health insurance, diagnoses, surgical procedures, and a statement of services rendered for related charges and other data needed to substantiate claims.

The following elements are outpatient data provided to Medicare intermediaries by rehabilitation agencies, skilled nursing facilities, hospital outpatient departments, and home intravenous drug providers and home health agencies that provide physical therapy in addition to home health services:

- Outpatient's name
- HI number
- Admission data to provider
- Place treatment rendered
- Number of visits since start of care
- Diagnosis
- Diagnosis requiring treatment
- Onset of condition for which treatment is being sought
- Dates of previous therapy for same diagnosis
- Other therapy outpatient is currently receiving
- Observations
- Precautions and medical equipment
- Functional status immediately prior to this therapy
- Types of treatment—modalities
- Frequency of treatment
- Expected duration of treatment
- Rehabilitation potential
- Level of communication potential
- Average time per visits
- Goals
- Statement of problem at beginning of billing period
- Changes in problem at end of billing period
- Signature of therapist
- Certification and recertification by physician that services are to be provided from an established plan of care
- Tests results
- Biopsy reports
- Methods of administration, e.g., pill vs. injection
- Physician's orders
- Procedure codes
- Charges
- Weekly progress notes
- National Drug Code (NDC)

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 1816, 1862(b) and 1874 of Title XVIII of the Social Security Act (42 U.S.C. 1395h, 1395y(b) and 1395kk).

PURPOSE(S):

To process and pay Medicare benefits to or on behalf of eligible individuals.

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

Disclsoure may be made to:

(1) Claimants, their authorized representatives or representative payees to the extent necessary to pursue claims made under title XVIII of the Social Security Act (Medicare).

(2) Third-party contacts without the consent of the individual to whom the information pertains in situations where the party to be contacted has, or is expected to have information relating to the individual's capability to manage his or her affairs or to his or her eligibility for or entitlement to benefits under the Medicare program when:

(a) The individual is unable to provide the information being sought (an individual is considered to be unable to provide certain types of information when any of the following conditions exist: individual is incapable or of questionable mental capability, cannot

read or write, cannot afford the cost of obtaining the information, a language barrier exists, or the custodian of the information will not, as a matter of policy, provide to the individual), or

(b) The data are needed to establish the validity of evidence or to verify the accuracy of information presented by the individual, and it concerns one or more of the following: the individual's eligibility to benefits under the Medicare program; the amount of reimbursement; any case in which the evidence is being reviewed as a result of suspected abuse or fraud, concern for program integrity, or for quality appraisal, or evaluation and measurement of systems activities.

(3) Third-party contacts where necessary to establish or verify information provided by representative payees or payee applicants.

(4) The Treasury Department for investigating alleged theft, forgery, or unlawful negotiations of Medicare reimbursement checks.

(5) The U.S. Postal Service for investigating alleged forgery or theft of Medicare checks.

(6) The Department of Justice for investigating and prosecuting violations of the Social Security Act to which criminal penalties attach, or other criminal statutes as they pertain to Social Security Act programs, for representing the Secretary, and for investigating issues of fraud by agency officers or employees, or violation of civil rights.

(7) The Railroad Retirement Board for administering provisions of the Railroad Retirement and Social Security Acts relating to railroad employment.

(8) Professional Review Organizations in connection with their review of claims, or in connection with studies or other review activities, conducted pursuant to part B of Title XI of the Social Security Act.

(9) State Licensing Boards for review of unethical practices or nonprofessional conduct.

(10) Providers and suppliers of services (and their authorized billing agents) directly or dealing through fiscal intermediaries or carriers, for administration of provisions of title XVIII.

(11) An individual or organization for a research, evaluation, or epidemiological project related to the prevention of disease or disability, or the restoration or maintenance of health if HFCA:

a. Determines that the use or disclosure does not violate legal limitations under which the record was provided, collected, or obtained;

b. Determines that the purpose of which the disclosure is to be made:

(1) Cannot be reasonably accomplished unless the record is provided in individually identifiable form;

(2) Is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring, and

(3) There is reasonable probability that the objective for the use would be accomplished.

c. Requires the information recipient to:

(1) Establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and

(2) Remove or destroy the information that allows the individual to be identified at the earliest time at which removal or distruction can be accomplished consistent with the purpose of the project, unless the recipient presents an adequate justification of a research or health nature for retaining such information, and

(3) Make no further use or disclosure of the record except:

(a) In emergency circumstances affecting the health or safety of any individual.

(b) For use in another research project, under these same conditions, and with written authorization of HCFA.

(c) For disclosure to a properly identified person for the purpose of an audit related to the research project. If information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit. or

(d) When required by law:

d. Secures a written statement attesting to the information recipient's understanding of and willingness to abide by the provisions.

(12) State welfare departments pursuant to agreements with the Department of Health and Human Services for administration of State supplementation payments for determination of eligibility for Medicaid, for enrollment of welfare recipients for medical insurance under Section 1843 of the Social Security Act, for quality control studies, for determining eligibility of recipients of assistance under titles IV and XIX of the Social Security Act, and for the complete administration of the Medicaid program.

(13) A congressional office from the record of an individual in response to an inquiry from the congressional office at the request of that individual.

(14) State audit agencies in connection with the audit of Medicaid eligibility considerations.

(15) The Department of Justice, to a court or other tribunal, or to another party before such tribunal, when:

(a) HHS, or any component thereof; or

(b) Any HHS employee in his or her official capacity; or

(c) Any HHE employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee, or

(d) The United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the tribunal, or the other party is relevant and necessary to the litigation and would help in the effective representation of the government party, provided, however, that in such case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

(16) Senior citizen volunteers working in the intermediaries and carriers' offices to assist Medicare beneficiaries' in response to beneficiaries requests for assistance.

(17) A contractor working with Medicare carriers/intermediaries to identify and recover erroneous Medicare payments for which workers' compensation programs are liable.

(18) State and other governmental Workers' Compensation Agencies working with the Health Care Financing Administration to assure that workers' compensation payments are made where Medicare has erroneously paid and workers' compensation programs are liable.

(19) Release information, without the beneficiary's authorization to insurance companies, self-insurers, Health Maintenance Organizations, multiple employer trusts and other groups providing protection against medical expenses of their enrollees. Information to be disclosed shall be limited to Medicare entitlement data. In order to receive this information the entity must agree to the following conditions:

a. To certify that the individual about whom the information is being provided is one of its insureds;

b. To utilize the information solely for the purpose of processing the identified individual's insurance claims; and

c. To safeguard the confidentiality of the data and to prevent unauthorized access to it.

(20) To a contractor for the purpose of collating, analyzing, aggregating or otherwise refining or processing records in this system or for developing,

modifying and/or manipulating ADP software. Data would also be disclosed to contractors incidental to consultation, programming, operation, user assistance, or maintenance for ADP or telecommunications systems containing or supporting records in the system.

(21) To an agency of a State Government, or established by State law, for purposes of determining evaluating and/or assessing cost, effectiveness, and/or the quality of health care services provided in the State, if HCFA:

a. Determines that the use or disclosure does not violate legal limitations under which the data were provided, collected, or obtained;

b. Establishes that the data are exempt from disclosure under the State and/or local Freedom of Information Act;

c. Determines that the purpose of which the disclosure is to be made:

(1) Cannot reasonably be accomplished unless the data are provided in individually identifiable form;

(2) Is of sufficient importance to warrant the effect and/or risk on the privacy of the individuals that additional exposure of the record might bring, and;

(3) There is reasonable probability that the objective for the use would be accomplished; and

d. Requires the recipient to:

(1) Establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record;

(2) Remove or destroy the information that allows the individual to be identified at the earliest time at which removal or distruction can be accomplished consistent with the purpose of the request, unless the recipient presents an adequate justification for retaining such information:

(3) Make no further use or disclosure of the record except:

(a) In emergency circumstances affecting the health or safety of any individual;

(b) For use in another project under the same conditions, and with written authorization of HCFA;

(c) For disclosure to a properly identified person for the purpose of an audit related to the project, if information that would enable project subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit; or

(d) When required by law; and

(4) Secure a written statement attesting to the recipient's understanding of and willingness to abide by these provisions. The recipient must agree to the following:

(1) Not to use the date for purposes that are not related to the evaluation of cost, quality, and effectiveness of care;

(2) Not to publish or otherwise disclose the data in a form raising unacceptable possibilities that beneficiaries could be identified (i.e., the data must not be beneficiary-specific and must be aggregated to a level when no data cells have ten or fewer beneficiaries); and

(3) To submit a copy of any aggregation of the data intended for publication of HCFA for approval prior to publication.

(22) To insurers, underwriters, third party administrators, self-insurers, group health plans, employers, health maintenance organizations, health and welfare benefit funds, Federal agencies, a State or local government or political subdivision of either (when the organization has assumed the role of an insurer, underwriter, or third party administrator, or in the case of a State that assumes the liabilities of an insolvent insurer, through a State created insolvent insurer pool or fund), multiple-employer trusts, no-fault, medical, automobile insurers, workers' compensation carriers or plans, liability insurers, and other groups providing protection against medical expenses who are primary payers to Medicare in accordance with 42 USC 1395y(b), or any entity having knowledge of the occurrence of any event affecting (A) an individual's right to any such benefit or payment, or (B) the initial or continued right to any such benefit or payment (for example, a State Medicaid Agency, State Workers' Compensation Board, or Department of Motor Vehicles) for the purpose of coordination of benefits with the Medicare program and implementation of the Medicare Secondary Payer provisions at 42 USC 1395y(b). The information HCFA may disclose will be:

- Beneficiary Name
- Beneficiary Address
- Beneficiary Health Insurance Claim Number
- Beneficiary Social Security Number
- Beneficiary Sex
- Beneficiary Date of Birth
- Amount of Medicare Conditional Payment

To administer the Medicare Secondary payer provisions at 42 USC 1395y(b) (2), (3), (4) more effectively, HCFA would receive (to the extent that it is available) and may disclose the following types of information from insurers, underwriters, third party administrators, self-insureds, etc.:

- Subscriber Name and Address
- Subscriber Date of Birth
- Subscriber Social Security Number
- Dependent Name
- Dependent Date of Birth
- Dependent Social Security Number
- Dependent Relationship to Subscriber
- Insurer/Underwriter/TPA Name and Address
- Insurer/Underwriter/TPA Group Number
- Insurer/Underwriter/TPA Group Name
- Prescription Drug Coverage
- Policy Number
- Effective Date of Coverage
- Employer Name, Employer Identification Number (EIN) and Address
- Employment Status
- Amounts of Payment

To administer the Medicare Secondary payer provision at 42 USC 1395y(b)(1) more effectively for entities such as Workers Compensation carriers or boards, liability insurers, no-fault and automobile medical policies or plans, HCFA would receive (to the extent that it is available) and may disclose the following information:

- Beneficiary's Name and Address
- Beneficiary's Date of Birth
- Beneficiary's Social Security Number*
- Name of Insured*
- Insurer Name and Address
- Type of coverage; automobile medical, no-fault, liability payment, or workers' compensation settlement.
- Insured's Policy Number
- Effective Date of Coverage
- Date of accident, injury or illness
- Amount of payment under liability, no-fault, or automobile medical policies, plans, and workers compensation settlements.
- Employer Name and Address (Workers' Compensation only)
- Name of insured could be the driver of the car, a business, the beneficiary (i.e., the name of the individual or entity which carries the insurance policy or plan).

In order to receive this information the entity must agree to the following conditions:

a. To utilize the information solely for the purpose of coordination of benefits with the Medicare program in accordance with 42 USC 1395y(b);

b. To safeguard the confidentiality of the data and to prevent unauthorized access to it;

c. To prohibit the use of beneficiary-specific data for purposes other than for the coordination of benefits between the recipient organization and the Medicare program. The agreement would allow the entities to use the information to determine cases where they have primary responsibility for payment or cases where Medicare has primary responsibility for payment. Examples of prohibited uses would include but are not limited to; creation of a mailing list, sale or transfer of data.

To administer the MSP provisions more effectively, HCFA may receive or disclose the following types of information from or to entities including insurers, underwriters, third party administrators (TPAs), and self-insured plans, concerning potentially affected individuals:

- Subscriber Health Insurance Claim Number
- Dependent Name
- Funding arrangements of employer group health plans, for example, contributory or non-contributory plan, self-insured, re-insured, HMO, TPA insurance
- Claims payment information, for example, the amount paid, the date of payment, the name of the insurer or payer
- Dates of employment including termination date, if appropriate
- Number of full and/or part-time employees in the current and preceding calendar years
- Employment status of subscriber, for example full or part time, self employed

(23) To the Internal Revenue Service for the application of tax penalties against employers and employee organizations that contribute to Employer Group Health Plans or Large Group Health Plans that are not in compliance with 42 U.S.C. 1395y(b).

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

STORAGE:

Records maintained on paper forms, magnetic tape and microfilm.

RETRIEVABILITY:

The system is indexed by health insurance claim number. The record is prepared by the hospital or other provider with identifying information received from the beneficiary to establish eligibility for Medicare and document and support payments to providers by the intermediaries. The bill data are forwarded to the Health Care Financing Administration, Bureau of Data Management and Strategy, Baltimore, Md., where they are used to update the central office records.

SAFEGUARDS:

Disclosure of records is limited. The file area is closed to unauthorized personal. Physical safeguards related to the transmission and reception of the data between Rockville and Baltimore are those requirements established by the DHHS ADP Systems Manual, Part 6.

RETENTION AND DISPOSAL:

Records are closed out at the end of the calendar year in which paid, held 2 more years, transferred to the Federal Records Center and destroyed after another 6 years.

SYSTEM MANAGER(S) AND ADDRESS:

Health Care Financing Administration Director, Division of Provider Procedures, 6325 Security Boulevard, Baltimore, MD 21207.

NOTIFICATION PROCEDURE:

Inquiries and requests for systems records should be addressed to the social security office nearest the requester's residence, the appropriate intermediary, the HCFA Regional Office, or to the system manager named above. The individual should furnish his or her health insurance number and name as shown on social security records. An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the records contents being sought.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. State the corrective action sought and the reasons for the correction with supporting justification.

RECORD SOURCE CATEGORIES:

The identifying information contained in these records is obtained by the provider from the individual or, in the case of some Medicare secondary payer situations, through third party contacts. The medical information is entered by the provider of medical services.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix A. Health Insurance Claims

Medical records are maintained at the HCPA Central Office (see section 1 below for the address). Health insurance records of the Medicare program can also be accessed through a representative of the HCFA Regional Office (see section 2 below for addresses). Medicare claims records are also maintained by private insurance organizations who share in administering provisions of the health insurance program. These private insurance organizations, referred to as carriers and intermediaries, are under contract to the Health Care Financing Administration and the Social Security Administration to perform specific tasks in the Medicare program. See section 3 below for addresses for intermediaries and section 4 addresses for carriers.

1. Central Office Addresses:

Bureau of Program Operations, HCFA, 6325 Security Boulevard, Baltimore, Maryland 21207. Office Hours: 8:15–4:45.

Bureau of Data Management and Strategy, HCFA, Office of Health Program Systems, Room 1705, Equitable Building, 6325 Security Boulevard, Baltimore, Maryland 21207. Office Hours: 8:15–4:45.

2. HCFA Regional Office Addresses:

BOSTON REGION—Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont
John F. Kennedy Federal Building, Room 1211, Boston, Massachusetts 02203. Office Hours: 8:30–5:00

NEW YORK REGION—New Jersey, New York, Puerto Rico, Virgin Islands
26 Federal Plaza—Room 715, New York, New York 10007. Office Hours: 8:30–5:00

PHILADELPHIA REGION—Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia
P.O. Box 8460, Philadelphia, Pennsylvania 19101. Office Hours: 8:30–5:00

ATLANTA REGION—Alabama, North Carolina, South Carolina, Florida, Georgia, Kentucky, Mississippi, Tennessee
101 Marietta Street, Suite 702, Atlanta, Georgia 30223. Office Hours: 8:30–4:30

CHICAGO REGION—Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin
Suite A—824, Chicago, Illinois 60604. Office Hours: 8:15–4:35

DALLAS REGION—Arkansas, Louisiana, New Mexico, Oklahoma, Texas
1200 Main Tower Building, Dallas, Texas. Office Hours: 8:30–4:30

KANSAS CITY REGION—Iowa, Kansas, Missouri, Nebraska
New Federal Office Building, 601 East 12th Street—Room 436, Kansas City, Missouri 64106. Office Hours: 8:30–4:45

DENVER REGION—Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming
Federal Office Building, 1961 Stout St—Room 1185, Denver, Colorado 80294. Office Hours: 8:30–4:30

SAN FRANCISCO REGION—American Samoa, Arizona, California, Guam, Hawaii, Nevada
Federal Office Building, 10 Van Ness Avenue, 20th Floor, San Francisco, California 94102. Office Hours: 8:30–4:30

SEATTLE REGION—Alaska, Idaho, Oregon, Washington
1321 Second Avenue—Room 615, Mail Stop 211, Seattle, Washington 98101. Office Hours: 8:30–4:30

3. Intermediary Addresses (Hospital Insurance):

Medicare Coordinate, Blue Cross/Blue Shield of Alabama, 450 Riverchase Parkway East, Birmingham, Alabama 35298

Medicare Coordinator, Blue Cross of Arizona, Inc., P.O. Box 13466, Phoenix, Arizona 85002

Medicare Coordinator, Arkansas Blue Cross/Blue Shield, Inc., 601 Gaines Street, Little Rock, Arkansas 72203

Medicare Coordinator, Blue Cross of Southern California, P.O. Box 700000, Van Nuys, California 91470

Medicare Coordinator, Blue Cross of Northern California, 1950 Franklin Street, Oakland, California 94659
Medicare Coordinator, Kasier Foundation Health Plan, Inc., 1956 Webster Street, Room 310A, Oakland, California 94612
Medicare Coordinator, Rocky Mountain Hospital and Medical Service, 700 Broadway, Denver, Colorado 80203
Medicare Administrator, Aetna Life & Casualty, 151, Farmington Avenue Hartford, Connecticut 06156
Medicare Coordinator, Blue Cross/Blue Shield Connecticut, 370 Bassett Rd., North Haven, Connecticut 06473
Medicare Administrator, Travelers Ins. Co., One Tower Square, Hartford, Connecticut 06115
Triage, Inc. 719 Middle Street, Bristol, Connecticut 06019
Medicare Coordinator, Blue Cross/Blue Shield of Delaware, Inc., 201 West 14th Street, Wilmington, Delaware 19899
Medicare Coordinator, Group Hospitalization, Inc., 550 12th Street, S.W., Washington, D.C. 20024
Medicare Coordinator, Blue Cross of Florida, Inc., P.O. Box 1798, Jacksonville, Florida 32201
Medicare Coordinator, Blue Cross of Georgia/Columbus, P.O. Box 7368, Columbus, Georgia 31906
Medicare Coordinator, Blue Cross of Georgia/Atlanta, P.O. Box 4445, Atlanta, Georgia 30302
Medicare Coordinator, Hawaii Medical Service Association, P.O. Box 860, Honolulu, Hawaii 96808
Medicare Coordinator, Blue Cross of Idaho, Inc., P.O. Box 7480, Boise, Idaho 83707
Medicare Coordinator, Health Care Service Corp., 233 North Michigan Avenue, Chicago, Illinois 60601
Medicare Coordinator, Mutual Hospital Insurance, Inc., 120 West Market Street, Indianapolis, Indiana 46204
Medicare Coordinator, Blue Cross of Iowa, Ruan Building, 636 Grant Avenue, Station 28, Des Moines, Iowa 50307
Medicare Coordinator, Blue Cross of Western Iowa and S. Dakota, Third and Pierce Street, Sioux City, Iowa 51102
Medicare Administrator, Kansas Hospital Service Association, Inc., P.O. Box 239, Topeka, Kansas 86601
Medicare Coordinator, Blue Cross and Blue Shield of Kentucky, Inc., 9901 Linn Station Road, Louisville, Kentucky 40223
Medicare Coordinator, Louisiana Health Service and Indemnity Company, 2718A Wooddale Blvd., Baton Rouge, Louisiana 70805
Medicare Coordinator, Associated Hospital Service of Maine, 110 Free Street, Portland, Maine 04101
Medicare Coordinator, Maryland Blue Cross, Inc., 700 East Joppa Road, Baltimore, Maryland 21204
Medicare Coordinator, Part A. Blue Cross of Mass., Inc., 100 Summer Street, Boston, Massachusetts 02106
Medicare Coordinator, Blue Cross of Michigan, 600 Lafayette East, Detroit, Michigan 48226
Medicare Coordinator, Blue Cross of Minnesota, 3535 Blue Cross Road, St. Paul, Minnesota 55765
Medicare Coordinator, Blue Cross of Miss., P.O. Box 1043, Jackson, Mississippi 39205
Medicare Coordinator, Blue Cross Hospital Service of Missouri, 4444 Forest Park Boulevard, St. Louis, Missouri 63106
Medicare Coordinator, Blue Cross of Montana, P.O. Box 5017, Great Falls, Montana 59403
Medicare Coordinator, Mutual of Omaha Ins. Co. Box 456, Downtown Station, Omaha, Nebarska 68101
Medicare Coordinator, Blue Cross of Nebraska, P.O. Box 3248, Main Post Office Station, Omaha, Nebraska 68103
Medicare Coordinator, New Hampshire Vermont Health Service, 2 Pillsbury Street, Concord, New Hampshire 03306
Medicare Coordinator, Hospital Service Plan of New Jersey, 33 Washington Street, Newark, New Jersey 07102
Medicare Coordinator, Prudential Ins. Co. of America, Drawer 471, 1 Millvelle, New Jersey 08332
Medicare Coordinator, New Mexico Blue Cross Inc., 12800 Indiana School Rd., N.E., Albuquerque New Mexico 87112
Medicare Coordinator, B/C–B/S of New York, 622 Third Avenue, New York, New York 10017
Medicare Coordinator, North Caroline B/C–B/S, P.O. Box 2291, Durham, North Carolina 27702
Medicare Coordinator, Blue Cross of North Dakota, 4510 13th Avenue, S.W., Fargo, North Dakota 58121
Medicare Coordinator, B/C of N.W. Ohio, P.O. Box 943, Toledo, Ohio 43601
Medicare Coordinator, B/C of N.E., Ohio, 2066 East Ninth Street, Cleveland, Ohio 44115
Medicare Coordinator, Hospital Care Corporation, 1851 William Howard Taft Road, Cincinnati, Ohio 45206
Medicare Coordinator, Nationwide Mutual Insurance Co., P.O. Box 1625, Columbus, Ohio 43216
Medicare Coordinator, B/C of Central Ohio, P.O. Box 16526, Columbus, Ohio 43216
Medicare Coordinator, Blue Cross of Oklahoma, 1215 South Boulder, Tulsa, Oklahoma 74119
Medicare Coordinator, Northwest Hospital Service, P.O. Box 1271, Portland, Oregon 97201
Medicare Coordinator, Blue Cross of Greater Philadelphia, 1333 Chestnut Street, Philadelphia, Pennsylvania 19107
Medicare Coordinator, Blue Cross of Western Pennsylvania. One Smithfield Street, Pittsburgh, Pennsylvania 15222
Medicare Coordinator, B/C of N.E. Pennsylvania, 70 North Main Street, Wilkes-Barre, Pennsylvania 18711
Medicare Coordinator, Hospital Service Plan of Lehigh Valley, 1221 Hamilton Street, Allentown, Pennsylvania 18102
Medicare Coordinator, Capital Blue Cross, 100 Pine Street, Harrisburg, Pennsylvania 17101
Cooperative de Seguros de Vida de Puerto Rico, G.P.O. Box 3428, San Juan, Perto Rico 00936
Blue Cross of Rhode Island, 444 Westminster Mall, Providence, Rhode Island 02901
Medicare Coordinator, Blue Cross of S.C., Columbia, South Carolina 29219
Medicare Coordinator, Blue Cross of Tennessee, Blue Cross Bldg., Chattanooga, Tennessee 37402
Medicare Coordinator, Group Hospital Service, Inc., P.O. Box 22146, Dallas, Texas 75222
Medicare Coordiantor, B/C of Utah, P.O. Box 30270, Medicare A, Salt Lake City, Utah 84130
Medicare Coordinator, B/C of S.W. Virginia, P.O. Box 13047, 3959 electric Rd., Roanoke, Virginia 24045
Medicare Coordinator, Blue Cross of Virginia, P.O. Box 27401, Richmond, Virginia 23261
Medicare Coordinator, B/C of Washington/Alaska, Inc., 15700 Dayton Avenue, North, P.O. Box 327, Seattle, Washington 89111
Medicare Coordinator, Parkersburg Hosp. Serv., Inc., P.O. Box 1948, Parkersburg, West Virginia 26101
Medicare Coordiantor, Blue Cross Hospital Service Inc., P.O. Box 1353, City Center West Charleston, West Virginia 25325
Medicare Coordinator, Blue Cross of Northern West Virginia Inc., 20th and Chaplin Streets, Wheeling, West Virginia 26003
Medicare Coordinator, Blue Cross/Blue Shield United of Wisconsin, Milwaukee, Wisconsin 53201
Medicare Coordinator, Blue Cross/Blue Shield of Wyoming, P.O. Box 2266, Cheyenne, Wyoming 8200
Health Care Financing Administration, Bureau of Program Operations, Office of Prepaid Operations Staff, 6325 Security Boulevard, Baltimore, Maryland 21207
Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611

Medicare Carriers

Medicare Coordiantor, Blue Cross and Blue Shield of Alabama, 450 Riverchase Parkway East, Birmingham, Alabama 35298
Vice President for Medicare and Medical Services, Arkansas Blue Cross and Blue Shield, Inc., 601 Gaines Street, Little Rock, Arkansas 72203
Medicare Coordinator, California Physicians Service (d/b/a Blue Shield of California), P.O. Box 7013, No. 2 Northpoint, San Francisco, California 94120
Medicare Coordinator, Transamerica Occidental Life Insurance Company, P.O. Box 54905 Terminal Annex, Los Angeles, California 90054
Assistant Vice President, Rocky Mountain Hospital and Medical Service (d/b/a Blue Cross and Blue Shield of Colorado), 700 Broadway, Denver, Colorado 80273
Medicare Administrator, Travelers Ins. Co., One Tower Square, Hartford, Connecticut 06183
Medicare Administrator, Aetna Life & Casualty, 151 Farmington Avenue, Hartford, Connecticut 06156
Medicare Coordinator, Blue Cross and Blue Shielf of Florida, Inc., P.O. Box 1798, Jacksonville, Florida 32231
Health Care Service Corporation, 233 North Michigan, Chicago, Illinois 60601
Associated Insurance Companies, Inc., (d/b/a Blue Cross and Blue Shield of Indiana), 8320 Craig Street, Suite 100, Indianapolis, Indiana 46250–0453

Assistant Executive Director, Blue Shield of Iowa, Ruan Building, 636 Grand Avenue, Station 28, Des Moines, Iowa 50309
Medicare Assistant, Blue Cross and Blue Shield of Kansas, Inc., P.O. Box 239, Topeka, Kansas 66601
Blue Cross and Blue Shield of Kentucky, Inc., 100 East Vine Street, 6th Floor, Lexington, Kentucky 40517
Medicare Coordinator, Blue Cross and Blue Shield of Maryland, Inc., 700 E. Joppa Road, Baltimore, Maryland 21204
Medicare Coordinator, Part B, Blue Shield of Massachusetts, Inc., 100 Summer Street, Boston, Massachusetts 02110
Assistant Vice President Government Affairs Department, Blue Cross and Blue Shield of Michigan, 600 Lafayete East, Detroit, Michigan 48226
Blue Cross and Blue Shield of Minnesota, P.O. Box 64357, 3535 Blue Cross Road, St. Paul, Minnesota 55164
Vice President Government Programs, Blue Cross and Blue Shield of Kansas City, P.O. Box 169, Kansas City, Missouri 64141
Director, Medicare Administration, General American Life Insurance Co., P.O. Box 505, St. Louis, Missouri 63166
Blue Cross and Blue Shield of Montana, Inc., P.O. Box 4309, 404 Fuller Avenue, Henena, Montana 59601
Medicare Coordiantor, Prudential Insurance Co. of America, Tri-City Office Drawer 471, Millville, New Jersey 06332
Director of Medicare Part B, Blue Shield of Western New York, Inc., 298 Main Street, Buffalo, New York 14202
Medicare Coordinator, Group Health Insurance, Inc., 330 West 42nd Street, New York, New York 10036
Medicare Coordinator, Empire Blue Cross and Blue Shield, 622 Third Avenue, New York, New York 10017
Medicare Coordinator, EQUICOR, Inc., 1285 Avenue of the Americas, New York, New York 10019
Medicare Coordinator, Blue Cross and Blue Shield of North Dakota, 4510 13th Avenue, S.W., Fargo, North Dakota 58121
Medicare System and Processing Division, Nationwide Mutual Insurance Company, P.O. Box 16788, Columbus, Ohio 43216
Medicare Coordinator, Pennsylvania Blue Shield, P.O. Box 65, Camp Hill, Pennsylvania 17011
Chief, Internal Operations, Seguros de Servicio de Salud de Puerto Rico 00936–3628
Medicare Coordinator, Blue Cross and Blue Shield of Rhode Island, 444 Westminister Mall, Providence, Rhode Island 02901
Medicare Coordinator, Blue Cross and Blue Shield of South Carolina, Fontaine Business Center, 300 Arbor Lake Drive, Suite 1300, Columbia, South Carolina 29223
Blue Cross and Blue Shield of Texas, Inc., 901 South Central Expressway, P.O. Box 833815, Richardson, Texas 75083–3815
Manager, Part B, Blue Cross and Blue Shield of Utah, P.O. Box 30270, 2455 Parley's Way, Salt Lake City, Utah 84130
Assistant Administrator, Washington Physicians Service, 4th and Battery Building, 2401 4th Avenue, 6th Floor, Seattle, Washington 98121
Director, Medicare Claims Department, Wisconsin Physicians' Service Insurance, Corp., 1717 West Broadway, Monana, Wisconsin 53713

[FR Doc. 90–21234 Filed 9–10–90; 8:45 am]

BILLING CODE 4120-03-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA320-00-4212-02]

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 the Office of Management and Budget 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's clearance office and to the Office of Management and Budget, Paperwork Reduction Project (1004–0012), Washington, DC 20503, telephone 202–395–7340.

Title: Recreation and Public Purposes Act, 432 CFR 2740.

OMB approval number: 1004–0012.

Abstract: Respondents supply information and data describing the lands requested, the proposed use of the lands, applicant qualifications, and detailed plans concerning project development and management. This information allows the Bureau to determine if the applicant and proposed use meet the requirements of the Recreation and Public Purposes Act of 1926, as amended.

Bureau form number: 2740–1.

Frequency: Occasionally.

Description of respondents: State and local governments and nonprofit organizations.

Estimated completion time: 47 hours.

Annual responses: 70.

Annual burden hours: 3,290.

Bureau Clearance Officer: (Alternate) Gerri Jenkins, 202–653–8853.

Dated: July 2, 1990.

Billy R. Templeton,

Acting Assistant Director for Land and Renewable Resources.

[FR Doc. 90–21237 Filed 9–10–90; 8:45 am]

BILLING CODE 4310-84-M

[AZ-920-00-4212-13; PHX 080325]

Arizona; Reconveyed Land Opened to Entry in Maricopa County

September 5, 1990.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of reconveyed land opened to entry.

SUMMARY: This action will open 320 acres of reconveyed land in Maricopa County to State Idemnity Selection Application.

EFFECTIVE DATE: September 11, 1990.

FOR FURTHER INFORMATION CONTACT: Angela Mogel, BLM Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011, (602) 640–5534.

SUPPLEMENTARY INFORMATION: On September 27, 1948, as authorized under Sec. 8 of the Act of June 28, 1934 (48 Stat. 1269), as amended, the United States acquired the following land:

Gila and Salt River Meridan, Arizona

T. 3 N., R. 6 W.,
Sec. 36, N½.
Containing 320 acres in Maricopa County.

The land described above has been determined suitable for disposal by State Indemnity Selection, as provided by the Arizona-New Mexico Enabling Act of June 20, 1910 (36 Stat. 557), as amended. The land will continue to be segregated from settlement, sale, location, or entries under the public land laws. The mineral estate was not reconveyed with the surface estate and, therefore, will not be subject to entry under the United States Mining or Mineral Leasing Laws.

Mary Jo Yoas,

Chief, Branch of Lands Operations.

[FR Doc. 90–21247 Filed 9–10–90; 8:45 am]

BILLING CODE 4310-32-M

[UT-020-00-4212-13; U-65686]

Salt Lake District; Realty Action; Exchange of Lands in Utah County, UT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action, bureau motion exchange of lands in Utah County.

SUMMARY: The following described land has been determined to be suitable for disposal by exchange under the provisions of section 206 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743) and 43 CFR part 2200:

	Acres
Selected Lands	
T. 8 S., R. 3 W., SLM:	
Section 1: Lot 2 (40 ac.), lot 3 (40 ac.) lots 4 (40.58 ac.), SW¼NW¼, W½SW¼	240.58
Section 11: E½E½	160.00
Section 12: W½W½, SE¼SW¼, SW¼SE¼	240.00
Section 13: NW¼NE¼, N½NW¼	120.00
Section 14: NE¼NE¼	40.00
Section 23: Lot 8 (39.58 ac.), lot 9 (39.74 ac.) and lot 16 (39.68 ac.)	119.00
Section 24: W½SW¼	80.00
Section 25: SE¼SE¼, NE¼SW¼, SE½NW¼	120.00
	1,119.58
In exchange for these lands, the United States will acquire the following described lands from Stanly R. Smith and Steven G. Smith.	
Offered Lands	
T. 8 S., R. 2 W., SLM:	
Section 31: Lot 3 (40.22 ac.), lot 4 (40.08 ac.),	80.30
T. 9 S., R. 2 W, SLM	
Section 6: Lot 1 (39.79 ac.), lot 2 (39.85 ac.), lot 3 (39.91 ac.), lot 4 (39.98 ac.), lot 5 (19.97 ac.), SE½NE¼, SE¼, S½NE¼	479.50
T. 8 S., R. 3 W., SLM:	
Section 36: S½, NW¼	480.00
Section 26: SW¼SE¼, E½SE¼ SW¼	60.00
	1,099.80

The purpose of this exchange is to facilitate the management and access of the Bureau of Land Management's Ten Mile Pass Grazing Unit. It will also be of equal benefit to the applicant in making better use of their private land. The exchange will create a more logical and efficient land pattern and eliminate isolated tracts. The public interest will be served by completing the exchange.

The values of the lands to be exchanged are approximately equal. Final equalization of value will be made after the final appraisal has been completed.

The mineral rights will not be exchanged because the applicant does not own the minerals on the offered land. The mineral rights will be reserved on those lands leaving public ownership.

Publication of this notice segregates the public lands from the operation of all other public land laws, including the general mining laws for a period of one year from the date of the first publication.

Further information concerning this exchange is available for review at the Salt Lake District Office.

For a period of 45 days from the date of first publication interested parties may submit comments to the Salt Lake District Office, 2370 South 2300 West, Salt Lake City, Utah 84119.

Deane H. Zeller,

Salt Lake District Manager.

[FR Doc. 90–21245 Filed 9–10–90; 8:45 am]

BILLING CODE 4310–DQ–M

INTERNATIONAL TRADE COMMISSION

[332–296]

Ice Hockey Pants and Monofilament Polyurethane Yarns: Probable Economic Effect of Elimination of U.S. Tariffs Under the United States-Canada Free-Trade Agreement

AGENCY: International Trade Commission.

ACTION: Institution of investigation and scheduling of hearing.

SUMMARY: Following receipt on August 21, 1990, of a request from the U.S. Trade Representative (USTR) pursuant to authority delegated by the President, the Commission instituted investigation No. 332–296 under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to advise the President with respect to ice hockey pants and monofilament polyurethane yarns classified under the subheadings of the *Harmonized Tariff Schedule of the United States* (HTS) contained in USTR's **Federal Register** notice of August 24, 1990 (55 FR 34783), of its judgment as to the probable economic effect of the immediate elimination of the U.S. tariff, under the United States-Canada Free-Trade Agreement, on domestic industries in the United States producing like or directly competitive products, and on connsumers.

The USTR has asked that the Commission provide its advice by October 22, 1990.

EFFECTIVE DATE: September 6, 1990.

FOR FURTHER INFORMATION CONTACT: The Project Leader, Kate Bishop (202–252–1494), General Manufactures Division, Office of Industries, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. For information on legal aspects of the investigation contact William Gearhart of the Commission's Office of General Counsel (202–252–1091). The media should contact Lisbeth Godley, Acting Director, Office of Public Affairs (202–252–1822).

Hearing impaired persons can obtain information on this study by contacting our TDD terminal on (202–252–1810).

Background: According to the USTR, due to incomplete information on the appropriate tariff classification, tariff negotiating advice was not obtained on specific tariff subheadings for certain ice hockey pants and certain monofilament polyurethane yarns. Therefore, these items could not be included in an agreement with the Government of Canada in 1989, concerning accelerated tariff elemination under the FTA. According to USTR, the United States and Canada agreed in substance to the acceleration of the elimination of duties on all ice hockey pants and certain monofilament polyurethane yarns during those negotiations.

More specifically, the USTR requests that the Commission provide advice as to the probable economic effect of tariff elimination on:

1. Monofilament yarn, solely of polyurethane, single, untwisted, not on beams, provided for in subheadings 3916.90.30 or 5404.10.20 of the Harmonized Tariff Schedule of the United States and in subheading 3916.90.90 or 5404.10.00 of the Customs Tariff of Canada.

2. Pants and shells for pants for use in ice hockey, provided for in subheadings 6113.00.00, 6210.50.10, or 6210.50.20 of the Harmonized Tariff Schedule of the United States and in subheading 6113.00.90 or 6210.50.00 of the Customs Tariff of Canada.

Written Submissions: Interested persons are invited to submit written statements concerning the investigation. Written statements should be received by the close of business on September 20, 1990. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. All submissions should be addressed to the Secretary at the Commission's office in Washington, DC.

By order of the Commission.

Issued: September 7, 1990.

Kenneth R. Mason,

Secretary.

[FR Doc. 90–21410 Filed 9–10–90; 8:45 am]

BILLING CODE 7020–02–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 business or organizations are affected.

As 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.

New

Employment and Training Administration,
January 1991 Job Training Supplement,
One-time,
Individuals or households,
57,000 respondents; 5,510 total hours; avg 5 min per response; no forms. The January 1991 Job Training Supplement will collect data which will be used to assess both the extent of job-related training received by individuals in the workforce and their training needs.

Revision

ETA Summaries—UI Trust Fund Activities,
1205-0154; ETA 2112, 8401, 8403, 8405, 8413, 8414,
Monthly.

Form No.	Affected public	Respondents	Frequency	Average time per response (minutes)
ETA 2112	State/local government	53	Monthly	30
ETA 8401	do	53	do	30
ETA 8403	do	18	do	30
ETA 8405	do	53	do	30
ETA 8413	Banks	53	do	30
ETA 8414	do	53	do	30

ETA report 8403 monitors Reed Act funds. ETA Reports 2112, 8401, 8405, 8413, and 8414 are used to monitor Unemployment Trust Fund cash flow, disbursement, measure cash management performance and regulate balances pertaining to unemployment benefits paid from Federal sources. These activities are coordinated with State government accounting systems.

Signed at Washington, DC this 6th day of September 1990.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 90-21257 Filed 9-10-90; 8:45 am]

BILLING CODE 4510-30-M

Office of the Assistant Secretary for Veterans' Employment and Training

Secretary of Labor's Committee on Veterans' Employment, Notice of Meeting; Rescheduling

The Secretary's Committee on Veterans' Employment was established under section 308, title III, Public Law 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.

This notice reschedules the meeting of the Secretary of Labor's Committee on Veterans' Employment, Subcommittee on Veterans' Employment and Training Policy, previously published in the Federal Register on August 14, 1990, (55FR33184), to Tuesday, September 25, 1990, at 9 a.m. in the Secretary's Conference Room S-2508 of the Department of Labor Frances Perking 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 4th day of September 1990.

Thomas E. Collins,

Assistant Secretary for Veterans' Employment and Training.

[FR Doc. 90–21256 Filed 9–10–90; 8:45 am]

BILLING CODE 4510–79–M

Secretary of Labor's Committee on Veterans' Employment, Meeting; Rescheduling

The Secretary's Committee on Veterans' Employment was establishhed under section 308, title III, Public Law 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.

This notice reschedules the meeting of the Secretary of Labor's Committee on Veterans' Employment previously published in the **Federal Register** on August 15, 1990 (55 FR 33390), to Tuesday, September 25, 1990 at 10 a.m. in the Secretary's Conference Room S–2508 of the Frances Perkins Building.

Written comments are welcome and may be submitted by addressing them to: Veterans' Employment and Training, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

The agenda items includes the Bureau of Labor Statistics Study on Vietnam Veterans Employment and the Transition Assistance Program for separating servicemembers.

The public is invited.

Signed at Washington, DC this 4th day of September, 1990.

Thomas E. Collins,

Assistant Secretary for Veterans' Employment and Training.

[FR Doc. 90–21255 Filed 9–10–90; 8:45 am]

BILLING CODE 4510–79–M

Employment and Training Administration

Office of Work-Based Learning; Federal Committee on Apprenticeship; Public Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92–462; 5 U.S. App. 1) of October 6, 1972, notice is hereby given that the Federal Committee on Apprenticeship (FCA) will conduct an open meeting on September 27, 1990, from 8:30 a.m.–4:30 p.m.; September 28, from 8:30 a.m.–12 noon at the Frances Perkins Building, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S–4215, A, B&C, Washington, DC.

The agenda for the meeting will include:

Thurs/September 27

8:30 a.m. Welcome
- Swearing in Members
- Overview of Agenda
- Orientation on FCA—Administrative Considerations
- Election of Co-Vice Chairpersons for Employer and
- Labor Groups
- Discussion of the Role of the Committee Chair's Plans for Operation of FCA
- Report to the FCA

Discussion of issues which impact on apprenticeship system and its future role in meeting America's needs for a skilled work force:

- Overview of FCA Role in Revising Apprenticeship Regulations
- How can the apprenticeship concept be broadened to all industries?
- How can current limitations or barriers in terms of occupations be overcome for the expansion of apprenticeship?
- What should the Apprenticeship Community do to reach out in recruiting more women into apprenticeship and overcoming existing barriers?

4 p.m. Public Comment

4:30 p.m. Recess to reconvene September 28 at 8:30 a.m.

Note. Lunch will be taken at 12 noon to 1 p.m.

Fri. September 28

8:30 a.m. RESUME DISCUSSION on the issues from previous day.

- How can apprenticeship be more effectively linked to the education system, and other training programs at Federal, State, and local levels?
- What should be the role of government in an expanded apprenticeship system?

Summarization by Chairperson. Determine date for next meeting.

12 Noon Adjourn

Discussion of agenda items may be rescheduled due to unforeseen time constraints.

Members of the public are invited to attend the proceedings. Any member of the public who wishes to file written data, views or arguments pertaining to the agenda may do so by furnishing a copy to the Executive Secretary at any time prior to the meeting. Papers received on or before September 19, 1990, will be included in the record of the meeting.

Any member of the public who wishes to speak at this meeting should so indicate the nature of intended presentation and the amount of time needed by furnishing a written statement to the Executive Secretary at any time prior to the meeting. The Chairperson will announce at the beginning of the meeting the extent to which time will permit the granting of such requests. Communications to the Executive Secretary should be addressed as follows: Mrs. M.M. Winters, Bureau of Apprenticeship and Training, ETA U.S. Department of Labor, 200 Constitution Avenue NW., room N–4644 Frances Perkins Building, Wash., DC 20210.

Signed at Washington, DC this 5th day of September 1990.

Roberts T. Jones,

Assistant Secretary of Labor for Employment and Training.

[FR Doc. 90–21254 Filed 9–10–90; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL SCIENCE FOUNDATION

NSF/DOT Project Solicitation Site Selection for the National Advanced Driving Simulator

In the matter of a Facility to be established by the U.S. Department of Transportation.

The National Transportation Policy calls for the development of a National Advanced Driving Simulator (NADS) facility which will be capable of performing fundamental research on a wide range of issues dealing with traffic safety, highway engineering, intelligent vehicle highway systems, and vehicle product development. The U.S. Department of Transportation (US DOT) has recently completed a feasibility study for a National Advanced Driving Simulator.[1] The NADS will be located at a major research university. The site selection will be on a strictly competitive basis which will take into account the university's scientific resources and experience, operational plan, long range strategic plan, as well as a commitment to cost sharing and other factors explained in the text of this Project Solicitation. The National Science Foundation is providing assistance to DOT by conducting the selection process which will identify the best candidate institution to host the NADS. The proposals will be evaluated by a multi-step, peer-review process following the established procedures for

[1] Title: *Feasibility and Conceptual Design of National Advanced Driving Simulator (DOT HS 807 596), March 1990.* Available at no cost from: United States Department of Transportation, National Highway Traffic Safety Administration, NRD–51 400 7th Street SW., Washington, DC 20590. Telephone: (202) 366–5662.

the NSF's Engineering Research Centers Program. The DOT will make the final selection and the award.

The site selection process will result in the award of a Cooperative Agreement between US DOT and the host university. At this time, it is not envisioned that any Federal funding will be provided by US DOT under the Cooperative Agreement initially awarded to the host university. The Cooperative Agreement will define the relationship between US DOT and the host university and their respective responsibilities during the development and operational phases of the NADS. The Cooperative Agreement will provide the mechanism for the future exchange and transfer of funding, property, and services. After the award of the Cooperative Agreement, the US DOT will initiate a series of procurement actions for the design, fabrication, and system integration of the NADS. Applicant institutions are advised that the initial appropriations provided by Congress are sufficient to provide for the preliminary aspects of the development of the NADS. Future Congressional appropriations to complete the development of the NADS will be dependent upon the extent of financial commitment provided by non-Federal sources.

At the conclusion of successful performance testing of the NADS, title to the completed NADS will be vested in the host university, and the NADS will be installed at the university under the terms of the Cooperative Agreement, subject to the provisions of Attachment N of OMB Circular A-110.

When constructed, the NADS is expected to represent the state-of-the-art in ground vehicle driving simulators. To exploit the capabilities of this national research asset for the benefit of the U.S. driving public, the host institution will be responsible for operating the facility and for conducting research projects for both public and private sector research organizations. The host institution will also be responsible for assuring that the NADS is fiscally self-supporting and that it remains at the cutting edge of driving simulation technology through appropriate and planned enhancements.

The user community of the NADS will consist of all public and private sector organizations engaged in transportation and related research and development. This will include all Federal and State government agencies, public and private academic institutions, the automotive and related industrial sector, and private research organizations. These organizations shall support their research projects by means of user fees in amounts determined by the host institution. The host institution also will be responsible for establishing schedules, setting research priorities, and resolving any conflicts among sponsoring organizations.

The NADS facility is intended to support a national transportation research program which will advance the state of the art and knowledge in a broad range of ground vehicle research topics. The most important of these are the following:

1. Motor Vehicle and Highway Safety Research.
2. Driver-Vehicle Interaction and Human Factors Research.
3. Intelligent Vehicle Highway Systems Research.
4. Motor Vehicle Product Development.
5. Highway Engineering and Design.
6. Driver Training Research.
7. Ground Vehicle Simulator Development.

While the NADS will have a dedicated non-academic staff, for general operational support, the teaching and research faculty of the host university is expected to provide the core of the reserach support. The host institution also is expected to provide specialized staff and/or research faculty to work closely with user organizations and sponsors in developing research projects and technical approaches which will meet user needs and objectives.

Who May Submit

U.S. academic institutions with strong science/engineering, human factors and health sciences programs, and experience in real-time simulation of mechanical systems are invited to submit proposals for the establishment of NADS. Demonstrated capabilities to form cooperative relations with the automotive and related industries will be favorably considered. As the NADS research parameters are designed to include human factors studies which encompass the effects of medical conditions, alcohol, drug abuse, physical and psychological disorders, and aging, ideally the university should have access to a health science complex which would support these studies. The host institution will be required to provide space and administrative infrastructure for the construction, maintenance, and operation of the facility.

NADS Director

The individual designated as full-time Director will be responsible for the overall leadership in planning, operation, and management of NADS. The Director may delegate some of these responsibilities to associates and establish advisory and/or policy committees involving intramural and/or extramural experts to provide guidance and assure quality. However, the NADS Director is the *one* person with ultimate authority and responsibility for all aspects of the NADS.

Deadline

Proposals *must* be received at NSF by January 16, 1991 to be considered for award. This award will be announced by the DOT in the spring of 1991. To facilitate proposal processing, the applicant institution should confirm plans to submit a proposal by sending a letter or FAX to Dr. Tapan Mukherjee, Program Director, Engineering Research Centers, National Science Foundation, Washington, DC 20550. (FAX: 202-357-7636) by November 16, 1990.

Proposal Content

The proposal should be prepared following the instructions under Proposal Format (see below) and should contain only material itemized in that section. Proposals that do not adhere to the specified page and word limitations will be ineligible for further consideration. Copies of the required forms are contained in Grants for Research and Education in Science and Engineering (GRESE); NSF 83-57, Rev. 5/90. Even though NSF forms are used, this will be a DOT Program.

The proposal must be single spaced (400 words per page and printed on both sides). Proposals that do not adhere to the specified page and word limitations, including those in the required appendices, will be ineligible for further consideration.

Proposal Format

Each proposal must contain the following elements in the order indicated.

1. NSF Cover Page (GRESE, NSF 83-57, Rev. 5/90, Appendix III): (a) Enter Engineering Centers Division in box for NSF Organizational Unit; (b) enter NSF/DOT Project Solicitation in the Program Announcement/Solicitaion/Closing Date box; (c) leave blank the boxes for Requested Amount, Proposed Duration, and Desired Starting Date.

2. Supplementary Information—NADS Director: NSF Form 1225 (GRESE, NSF 83-57, Rev. 5/90, Appendix II). Attach one signed copy to the proposal. Do not attach the form to any of the other copies of the proposal, since this would compromise the confidentiality of the information.

3. Table of Contents: Key page numbers to the major sections of the proposal.

4. Executive Summary (up to 3 pages): Address only key features of items 5 through 13 (see below).

5. Rationale for the NADS (up to 2 pages).

6. Operation and Management Plan (up to 15 pages): Provide a clear description of the organizational and operating structure of the NADS. Clearly outline mechanisms for focusing the activities of the NADS; selecting, prioritizing, and integrating research projects, billing and revenue collection, identification of proposed system security, protection of sensitive data, quality assurance and dissemination of test results, and safety considerations (equipment and people using the simulator), liability insurance and medical support; allocating funds and equipment; and managing the involvement of individuals and groups in the research programs. The plan shall also include proposal(s) on how and to what extent the institution will provide financial credits and/or priority access to organizations that have contributed initial funding to the NADS. Also, if the institution proposes the use of advisory or policy committees to assist in the management of the NADS, the role and structure of these groups should be clearly described.

7. Scientific Resources, and Research and Teaching Experience Relating to Ground Vehicle Driving Simulation (up to 15 pages): Include scientific personnel, laboratory and computer related facilities, medical and health research facilities and personnel, etc.

8. Industrial Collaboration and Knowledge/Technology Transfer (up to 10 pages): Present the strategy to achieve industrial/other user collaboration and knowledge/technology transfer. Provide key examples of how the NADS will gain the active input and involvement of industrial personnel in research, as well as in the planning and assessment of the activities of the NADS.

9. Initial Cost-Sharing Commitment (up to 5 pages): Provide a detailed explanation of what the institution will provide to demonstrate an initial cost-sharing commitment in terms of monetary or in-kind contributions (e.g., real estate). Include letters of commitment from appropriate institutional and/or State authorities.

10. Leadership and Performance Competence (up to 3 pages): Include a description of the roles of the NADS Director and other senior staff; include the management experience of the Director.

11. Relationship of the NADS with the host institution (up to 3 pages): Describe the organizational structure and its relation to the university administration. Clearly delineate the lines of authority.

12. Education (up to 3 pages): Discuss the impact of the NADS on educational activities (e.g., new courses, new degree programs, changed curriculum).

13. Long Range Vision and Strategic Plan (up to 15 pages):

Provide long term plans to generate revenue for facility upgrades and maintaining state-of-the-art technology to insure continued usage of the NADS. Provide a strategy for solidifying and expanding the customer base, the commercialization of simulator research spin-offs, the development of other driving simulator concepts and the development of an advanced curriculum in driving simulation and human factors.

Appendices

1. Facilities and Equipment: (4 pages).

2. Biographical Sketches: Biographical information of only the senior staff should be limited to two pages per individual and may include the list of ten most recent and relevant publications.

3. Only official letters that verify specific institutional commitments are permitted.

No other appendices are to be included.

Evaluation of Proposals

Proposals will be evaluated in several stages of merit review which may include an initial review by NSF, mail/panel review, site visit review, and final review by a specially convened NSF/NADS Panel. NSF will forward the panel recommendations to the US DOT for further review and selection. The award announcement will be made by the Secretary of the Department of Transportation.

Proposals may be declined at any point in the review process. After the initial review for compliance to this Project Solicitation, the proposals will be evaluated by a combined mail and panel review process. Based on this review, a number of proposals that appear most promising will be identified for site visits; the other proposals will be declined. Although the site visit review will focus on all aspects of the proposal, NSF staff may indicate in advance what additional information will be needed by the site visit team. The final NSF review phase involves a comprehensive review by a multidisciplinary panel specially convened for the NADS Program. The Principal Investigators of proposals for which site visits are made will be asked to make brief presentations to the NADS Panel.

NSF's established procedure to protect the confidentiality of review documents and the identity of individual reviewers will be strictly followed. No inquiries other than clarifications of the statements made in this Project Solicitation will be entertained.

Selection Criteria

Criteria used in the evaluation of proposals generally are based on the guidelines for merit review in GRESE, NSF 83–57, Rev. 5/90. Additional key items which will be considered in the proposal evaluations are as follows:

1. Available Scientific Resources and Experience to perform, including but not limited to, the following key technology areas:

- Ground Vehicle Driving Simulators
- Real Time Dynamic Simulation
- Ground Vehicle Dynamics Modeling
- Driver-Vehicle Control Systems
- Human Factors/Ergonomics/Behavioral Science/Cognitive Psychology/Psychometrics (related to ground vehicle drivers and passengers)
- Medical Research Related to Impaired Driving Conditions (e.g., geriatrics, sleeping disorders, diabetics, substance abuse, etc.)
- Parallel Processing Computer Science
- Computer Image Generation and Database Development
- Statistical Analysis of Simulation and Psychometric Data

2. Simulator Operating Plan:

- Organizational Structure
- Staffing—research, technical, management, business, safety, and security
- Relationship to Host Institution
- Procedures for Project Selection and Prioritization
- Industrial Collaboration and Technology Transfer
- Equipment Safety and Safety of Individuals Driving the Simulator
- Evaluation Plan, for assessing the quality of research
- Dissemination of Results
- Protection of Sensitive Data

3. Long Range Strategic Plan:

- Facility Upgrade
- Expansion of Customer Base
- Commercialization of Simulator Research
- Educational Curriculum
- Innovations in Driving Simulator Concepts, (e.g., multidriver simulator networking, part task simulators, special purpose training simulators, etc.)

4. University Cost Sharing:

- Cash and/or In-kind Contribution
- Contribution to Operating Expenses and Personnel
- Technical assistance such as assignment of university staff to US DOT Headquarters, Washington, DC, during the NADS procurement phase.

Where and How to Submit

Fifteen copies of the proposal should be submitted to: Data Support Services

Section, room 223, attn: US DOT/NADS: Engineering Research Centers Program, National Science Foundation, Washington, DC 20550.

One copy of the proposal must be signed by the proposed NADS Director and an official authorized to commit the institution in business and government affairs.

Proposals may also be submitted electronically. For information, contact the Electronic Proposal Submission Program Director, Office of Information Systems (OIS), phone (202) 357–9767, or via e-mail at gstuck@nsf (BITNET) or gstuck@note.nsf.gov(INTERNET).

Additional Information

Copies of GRESE (NSF 83–57, Rev. 5/90) are available at no cost from: Publications Unit, room 233, National Science Foundation, Washington, DC 20550.

For inquiries concerning the Project Solicitation, please contact the Engineering Centers Division (Dr. Tapan Mukherjee, Tel. 202–357–9707).

Dated: August 29, 1990.

Herman G. Fleming,

NSF Reports Clearance Officer.

[FR Doc. 90–20770 Filed 9–10–90; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–425]

Georgia Power Co., et al; Vogtle Electric Generating Plant, Unit 1; Exemption

I

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, and City of Dalton, Georgia (the licensee), are the holders of Facility Operating License No. NPF–81 issued March 31, 1989, which authorizes full power operation of the Vogtle Electric Generating Plant, Unit 2 (the facility). The license provides, among other things, that it is subject to all rules, regulations and Orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facility consists of a pressurized water reactor at the licensee's site located in Burke County, Georgia.

II

10 CFR part 20, appendix A, "Protection Factors for Respirators," establishes protection factors of air-purifying respirators for protection against particulates only. Furthermore, footnote d–2(c) states, "No allowance is to be made for the use of sorbents against radioactive gases or vapors." This restriction was needed since an inadequate data base had existed for evaluating the complex interaction of many factors affecting the service life and removal efficiency of radioactive gases and vapors by sorbent canisters. Also, due to the lack of a data base, an NIOSH/MSHA certification schedule to ensure that canisters meet acceptable performance criteria has not been established.

10 CFR 20.103(e) allows the Commission to authorize the use of respiratory equipment in lieu of an NIOSH/MSHA certification when such an action is justified based on adequate testing of material and performance characteristics. An application by a licensee for this authorization must include a demonstration by testing, or on the basis of reliable test information, that the material and performance characteristics of the equipment are capable of providing the proposed degree of protection under anticipated conditions of use. The licensee has made such an application.

10 CFR 20.501 allows an exemption to be granted by the Commission from the requirements of the regulations in 10 CFR part 20 as it determines is authorized by law and will not result in undue hazard to life or property.

By letter dated September 28, 1989 (ELV–00902), the licensee requested an exemption based on 10 CFR 20.501 to allow the use of radioiodine MSA GMR–1 canisters with a protection factor of 50 for personnel respiratory protection. The licensee also requested an allowance to store the MSA GMR–1 canisters with a protection factor of 50 for personnel respiratory protection. The licensee also requested an allowance to store the MSA GMR–I canisters in a Class C storage environment as defined in ANSI N45.2.2. A similar exemption from 10 CFR part 20 was granted to Vogtle Electric Generating Plant, Unit 1, on October 27, 1988, and subsequently amended on February 23, 1990. In support of the Unit 2 exemption request, the licensee cited research data, test results, test protocol and a quality assurance sampling plan that, according to the licensee, satisfies the recommended qualification process of NUREG/CR–3403, "Criteria and Test Methods for Certifying Air-Purifying Respirator Cartridges and Canisters Against Radioiodine."

The Commission's staff evaluated the information provided by the licensee to support the exemption request. The Commission's Safety Evaluation on this matter relating to the use of a radioiodine protection factor of 50 for GMR–1 canisters at Vogtle 2 is being issued concurrently with this Exemption. The Safety Evaluation concludes that the licensee's proposed use of radioiodine MSA GMR–I canisters with certain usage restrictions and controls can result in significant dose savings over alternative methods while still providing effective protection.

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 20.501, an exemption as requested by the licensee's letter of September 28, 1989, is authorized by law and will not result in undue hazard to life or property. The Commission hereby grants an exemption from the restriction of 10 CFR part 20, Appendix A, footnote d–2(c), and authorizes the use of the MSA GMR–I canister, with restrictions as shown in Attachment 1 to this exemption. Attachment 1 allows storage of the MSA GMR–I canisters in Class C storage environments. The exemption is subject to modification by rule, regulation, or Order of the Commission.

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of the exemption will have no significant impact on the environment, (55 FR 35480).

This exemption is effective upon issuance.

Dated at Rockville, Maryland this 31st day of August, 1990.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

Attachment 1—Limitations, Usage Restrictions, and Controls Applicable to the Use of MSA GMR–I Canister at the Vogtle Electric Generating Plant, Unit 2

1. Protection factor equal to 50 as a maximum value.
2. The maximum permissible continuous use time is eight hours after which the canister will be discarded.
3. Canisters are not to be used in the presence of organic solvent vapors.
4. Canisters are to be stored in a Class C or better environment, as defined in ANSI N45.2.2.
5. The allowable service life for sorbent canisters is to be calculated from the time of unsealing the canister, including periods of non-exposure.
6. Canister is to be used with a full facepiece capable of providing a fit factor equal to or greater than 500.
7. Canisters are not to be used in total challenge concentrations of organic iodines and other halogenated compounds greater than 1 ppm, including nonradioactive compounds.

8. Canisters are not to be used in environments where temperatures are greater than 110 °F, or up to 120 °F if the dewpoint is equal to or less than 107 °F.

In addition to the limitations and usage restrictions noted above, the following additional controls will be utilized by the licensee:

1. Temperatures will be measured prior to and/or during the use of GMR–I canisters to assure that work temperatures are within limits.

2. Air samples will be taken prior to and during any activities that involve the use of the GMR–I canister for protection against radioactive iodine.

3. A GMR–I canister found to have exceeded 3 years from date of manufacture will not be used for protection against radioactive iodine.

4. In the initial implementation of the GMR–I program, the following verification measures will be in effect:

a. Weekly whole body counts for individuals using the GMR–I canisters for radioiodine protection;

b. A whole body count for individuals that exceed 10 MPC in a week and used the GMR–I canister for respiratory protection in that period;

c. Anyone that measures 70 nCI or greater iodine uptake to the thyroid during a whole body count will be restricted from entering a radioiodine atmosphere pending Health Physics evaluation;

d. The radiological survey and whole body count information will be compiled to evaluate the effectiveness of the program.

[FR Doc. 90–21150 Filed 9–10–90; 8:45 am]
BILLING CODE 7590–01–M

RESOLUTION TRUST CORPORATION

Statement of Policy on Accelerated Resolution Program

AGENCY: Resolution Trust Corporation ("RTC").

ACTION: Policy statement.

SUMMARY: In order to ensure the Resolution Trust Corporation ("RTC") is able to dispose of its substantial volume of troubled savings institutions in the most expeditious and cost effective manner possible, the Resolution Trust Corporation has approved the Accelerated Resolution Program ("ARP"). All assistance provided by the RTC under the ARP will be provided on a closed basis with the assisted institution put into receivership immediately prior to the sale of the institution.

Background

Since its inception in August 1989, when it took control of 261 savings institutions that were under FDIC conservatorship, the RTC's resolution process has included taking troubled institutions identified by the Office of Thrift Supervision ("OTS") into conservatorship.

Conservatorship, however, is itself not without cost. In particular, if an institution remains in conservatorship for a lengthy period of time, its franchise value may dissipate. Key personnel—especially those who are the most talented—have little incentive to remain with an institution under such circumstance. The loss of such personnel represents the loss of specialized knowledge of the assets, operations, and customers of an institution. Depositors may also begin to desert such an institution to avoid the uncertainty associated with either an assisted sale or liquidation. Placing an institution with franchise value in conservatorship, thus has the potential of raising rather than lowering the ultimate taxpayer cost of resolution of the savings and loan problem.

The ARP is designed to preserve franchise value, and thus minimize the cost to the taxpayer. It provides for the marketing and sale of institutions without putting the institution through a conservatorship. In addition, because franchise value is largely a function of private sector interest, the ARP is designed to give priority to the accelerated resolution of institutions in which there are indications of private sector investor interest.

At the same time, it is recognized that circumstances may require that some institutions be closed as soon as possible. Therefore, institutions that are candidates for conservatorship and deemed by the OTS, in consultation with the RTC, to have little or no franchise value, as well as those with liquidity problems and those whose continued operation poses an undue risk of further deterioration, will be placed under the RTC's control for immediate resolution.

Description of the Program

Under the Accelerated Resolution Program, an institution will be marketed before it is actually placed in RTC conservatorship by the OTS. All qualified potential bidders will be given appropriate on-site access to the institutions to conduct due diligence reviews as necessary. The OTS will monitor the due diligence process to assure that it is competitive and open to all qualified potential bidders.

Institutions in the program will provide the RTC and OTS with periodic financial reports as well as allow the RTC, or its designated contractor, unrestricted access to conduct its own due diligence review. The OTS may remove an institution from the ARP and place it in conservatorship at any time if it believes that the continued operation of the institution poses an undue risk.

Procedures

It is the responsibility of a depository institution's chartering agency to determine whether or not it is a qualified bidder in an ARP transaction. A nonfinancial institution or a private investment group must initiate contact with the appropriate chartering agency before it may be considered an eligible bidder, and must have received charter and deposit insurance approval before its bid can be accepted. It is the responsibility of the bidder to obtain all necessary regulatory approvals.

To be successful the ARP requires a high level of cooperation and close coordination between the RTC and the OTS. The ARP contemplates a substantial degree of interaction at the Washington Office and Regional Office levels between the RTC and the OTS with respect to identification, monitoring and marketing of institutions that qualify. In addition to its supervisory and regulatory duties, the OTS has agreed to assist the RTC in the marketing of institutions that are in the ARP.

Eligibility

To be eligible for the ARP an institution must be found by the OTS to be in danger of failing and possess the financial characteristics that would cause it to be placed into the RTC conservatorship within one year. Such findings would be at the sole discretion of the OTS. Moreover, for an institution to be eligible, the OTS must determine that an institution has an acceptable structure and a stable operating environment.

Institutions not eligible for the ARP because they may be judged to have no franchise value, unsound management or unstable operations, will be placed in conservatorship immediately. (A finding of no franchise value would only be made after consultation with the RTC.)

• In the event an institution is determined to have no franchise value it will be placed in conservatorship and liquidated through a competitive bidding process as an Insured Deposit Transfer transaction.

• Institutions that demonstrate significant managerial problems or

unstable operations that are placed in conservatorship but also indicate franchise value will be processed under the normal conservatorship marketing and bidding procedures. Marketing and bidding will be on an expedited basis consistent with the then existing conservatorship prioritization schedule.

Institutions determined to be eligible for the ARP will be notified by the OTS. The OTS will establish for the institution the supervisory and regulatory framework in which the institution will operate while in the ARP. The RTC, in consultation with the OTS, will establish for eligible institutions marketing and bid guidelines by which the institution will be marketed and bids will be solicited.

Marketing and Bid Solicitation

Institutions that are eligible for the ARP may initiate accelerated resolution processing by voluntarily bringing to the RTC a cost effective transaction that has been secured subject to the RTC's marketing policies and guidelines.

Institutions that do not voluntarily initiate marketing under the RTC's guidelines will be placed, by the OTS, under accelerated resolution processing 90 days prior to the expected date of conservatorship. If a cost effective transaction can not be obtained within 90 days the institution will be placed in conservatorship and liquidated under an Insured Deposit Transfer transaction.

Due Diligence

Institutions that voluntarily present the RTC with a cost effective bid will be immediately scheduled for due diligence, and prospective qualified bidders will be notified that the institution will be sold within 60 days of completion of due diligence.

Institutions under the 90-day involuntary process will be scheduled for due diligence as soon as the OTS places the institution in the involuntary process.

Direction and Management of ARP

Marketing and bid solicitation will be under the general direction the marketing and bid solicitation process.

Bid Acceptance, Evaluation and Pricing

Pre-bid discussions and bid submission should be directed to the RTC or the OTS in those cases where the OTS is acting on behalf of the RTC. In all cases the RTC will be responsible for the evaluation and pricing of bids.

Structure of Accelerated Resolution Program Bids

Bids under the ARP must be on a closed basis. Preference will be given to bids that provide for the surviving institution to acquire a substantial portion of the assets of the assisted institution. As is the case with the FDIC, the RTC will also consider bids where the surviving institution does not acquire a substantial portion of the assets of the assisted institution only if no acceptable bids are received that include the acquisition of most of the thrift's assets. The OTS will identify a set of problem assets for which this preference will not be given.

RTC assistance may include asset put and call options and representations and warranties to the same extent as other RTC transactions. No yield or loss coverage or other open-ended assistance will be provided by the RTC. The assistance must be accompanied by a capital infusion from non-RTC sources that brings the institution into compliance with the capital requirements of its primary supervisor.

The continued service of any directors or senior banking officers in a policy-making role at the acquired institution will be subject to approval by the primary regulator of the surviving institution and the FDIC in its role as deposit insurer.

EFFECTIVE DATE: This policy statement is effective July 10, 1990.

ADDRESSES: Resolution Trust Corporation, 801 17th St., NW., Washington, DC 20434.

FOR FURTHER INFORMATION CONTACT: William H. Roelle, Director, Resolutions and Operations Division, RTC 202/416-7579 and Barry S. Kolatch, Director, Office of Research and Statistics, RTC 202/416-7576.

By order of the Board of Directors.

Dated at Washington, DC, this 10th day of July, 1990.

John M. Buckley, Jr.

Executive Secretary.

[FR Doc. 90-21204 Filed 9-10-90; 8:45 am]

BILLING CODE 6714-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-28401; File No. SR-AMEX-90-17]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the American Stock Exchange, Inc., Relating to Expansion of Options Principal Member and Limited Trading Permit Holder Trading Privileges

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78f(b)(1), notice is hereby given that on August 13, 1990, the American Stock Exchange, Inc. ("AMEX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The AMEX proposes to amend Article IV, sections 1(b)(4) and 1(j)(3) of the Exchange Constitution to permit options principal members ("OPMs") and limited trading permit ("LTP") holders to trade "derivative products" other than just standardized options.

The text of the proposed rule change is available at the Office of the Secretary, AMEX and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The Exchange has been developing several new derivative products intended to attract both institutional and retail investors. In April 1990, the Board of Governors approved listing guidelines for unit investment trusts or other entities ("Trusts") that issue securities based on (1) a portfolio of stocks included in a stock market index, and/or (2) a portfolio of money market or other debt instruments. Holders of Trust shares or units would be able to separate the shares or units into components reflecting distinct interests and investment objectives, such as the right to dividend income, the possiblity of capital appreciation or the ability to hedge against market decline. A Trust

could operate on an open- or closed-end basis. These guidelines were initially intended to accommodate the listing of "SuperUnits" of certain "SuperTrusts" sponsored by SuperShare Services Corporation ("SSC")—the SSC Super Trust [1]—but are broad enough to accommodate other trusts of varying sizes and characteristics.

The Exchange is also developing another new basket type product to be called Standard & Poor's Index Receipts ("SPIRS"). SPIRS, like SSC SuperUnits, represent interests in actual portfolios of securities, although in other respects both of these products have similarities to the Equity Index Participations ("EIPs") traded on the Exchange in 1989. Whether the Exchange ultimately trades more than one of these products will depend on future events, but the Exchange believes that to support trading in basket type products and to optimize the chance for an active trading crowd to develop, it is important that as many members as possible be given the opportunity to trade them. A larger number of qualified traders will add liquidity and depth to the market, thereby attracting more public investors.

While the Exchange Constitution provides that OPMs and LTPs are entitled to trade as principal in options and index option products, respectively, the Exchange considers is desirable to clarify that such members are also entitled to trade the kinds of derivative products described above. Accordingly, the Constitution has been amended to provide that OPMs are entitled to trade "derivative products," and that LTP holders are entitled to trade derivative products other than individual stock options. In this amendment derivative products have been defined to include, in addition to standardized options, other securities which are issued by the Options Clearing Corporation or another limited purpose entity or trust, and which are based solely on the performance of an index or portfolio of other publicly traded securities. It is not intended that this definition will expand OPM and LTP trading privileges to include products which they are currently not entitled to trade such as currency warrants, index warrants or closed-end mutual funds.

Of course, Exchange members engaging in principal transactions in either standardized options or other derivative products (other than the registered specialist in the product) will do so as registered option traders ("ROTs") subject to the normal privileges and responsibilities provided in Exchange Rule 958.

(2) Basis

The AMEX believes that the proposed rule change is consistent with section 6(b) of the Act in general and furthers the objectives of sections 6(b)(2) and 6(b)(5) in particular in that the proposal will help broaden access to the Exchange's market and help perfect the mechanism of a free and open market.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will impose no burden on competition. On the contrary, it will enhance competition among ROTs within its market and thus increase competition between the Exchange and other markets.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or others

No written comments were either solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve the proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by October 2, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 31, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-21191 9-10-90; 8:45 am]

BILLING CODE 8010-01-M

[1] SuperTrust, SuperShares and SuperUnits are registered trademarks of SSC. For further discussion of SuperTrust securities, *see* Securities Exchange Act Release No. 28095 (June 6, 1990), 55 FR 24016 (File No. SR-AMEX-90-06).

[File No. 7-6172]

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Chicago Board Options Exchange, Inc.

August 29, 1990.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges ("UTP") in the 500 stocks comprising the S&P 500 Stock Index as indicated in the attached Exhibit A. The CBOE currently has approval to trade these stocks only as part of a market basket. This application proposes UTP, on an individual basis, for each of the stocks comprising the S&P 500 Index and is not related or limited to trading such stocks as part of a market basket.

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before September 20, 1990, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission,

450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if its finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulations, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

STANDARD & POOR'S 500

[Market Value Order, Wednesday, Aug. 22, 1990]

Rank	Ticker	Company	Market Value	Percent of 500	Cumulative (Percent)
1.	XON	Exxon Corp	64218.750	3.05	3.05
2.	IBM	International Business Machines	56895.300	2.70	5.74
3.	GE	General Electric	53940.663	2.56	8.30
4.	RD	Royal Dutch Petroleum	44159.096	2.09	10.40
5.	MO	Philip Morris	39926.790	1.89	12.29
6.	T	American Tel. & Tel	34985.378	1.66	13.95
7.	MRK	Merck & Co	31039.528	1.47	15.42
8.	WMT	Wal-Mart Stores	30434.433	1.44	16.87
9.	BMY	Bristol-Myers Squibb	30075.601	1.43	18.29
10.	AN	Amoco	29366.564	1.39	19.69
11.	CHV	Chevron Corp	27900.474	1.32	21.01
12.	MOB	Mobil Corp	26655.604	1.26	22.27
13.	KO	Coca Cola Co	26539.931	1.26	23.53
14.	PG	Proctor & Gamble	25621.686	1.22	24.75
15.	DD	Du Pont (E.I.)	24931.016	1.18	25.93
16.	BLS	BellSouth	24920.368	1.18	27.11
17.	ARC	Atlantic Richfield	22442.211	1.06	28.18
18.	GM	General Motors	22047.188	1.05	29.22
19.	JNJ	Johnson & Johnson	20857.507	.99	30.21
20.	LLY	Lilly (Eli) & Co	19690.109	.93	31.15
21.	PEP	PepsiCo Inc	17930.580	.85	32.00
22.	MMM	Minn. Mining & Mgf	17618.289	.84	32.83
23.	BEL	Bell Atlantic	16912.215	.80	33.63
24.	TX	Texaco Inc	16891.264	.80	34.44
25.	GTE	GTE Corp	16597.676	.79	35.22
26.	WMX	Waste Management Inc	16302.370	.77	36.00
27.	F	Ford Motor	16134.300	.77	36.76
28.	ABT	Abbott Labs	15978.350	.76	37.52
29.	PAC	Pacific Telesis	15695.064	.74	38.26
30.	BA	Boeing Company	15562.530	.74	39.00
31.	AIT	Ameritech	15164.470	.72	39.72
32.	SLB	Schlumberger Ltd	15031.742	.71	40.43
33.	SBC	Southwest Bell Corp	14841.286	.70	41.14
34.	AHP	American Home Products	14093.505	.67	41.81
35.	NYN	Nynex	13793.150	.65	42.46
36.	AIG	American Int'l. Group	13251.735	.63	43.09
37.	DIS	Walt Disney Co	13249.306	.63	43.72
38.	USW	US West Inc	13229.638	.63	44.35
39.	UN	Unilever N.V.	12863.295	.61	44.96
40.	EK	Eastman Kodak	12658.503	.60	45.56
41.	DOW	Dow Chemical	11512.618	.55	46.10
42.	PFE	Pfizer, Inc	11034.643	.52	46.63
43.	AXP	American Express	10799.308	.51	47.14
44.	BUD	Anheuser-Busch	10502.375	.50	47.64
45.	MCD	McDonald's Corp	9955.000	.47	48.11
46.	S	Sears, Roebuck & Co	9860.560	.47	48.58
47.	SGP	Schering-Plough	9673.470	.46	49.04
48.	PCG	Pacific Gas & Electric	9116.038	.43	49.47
49.	MOT	Motorola Inc	8802.000	.42	49.88
50.	WX	Westinghouse Electric	8683.260	.41	50.30
51.	CCB	Capital Cities/ABC	8668.500	.41	50.71
52.	MCIC	MCI Communications	8250.000	.39	51.10
53.	X	USX Corp	8247.952	.39	51.49
54.	HNZ	Heinz (H.J.)	8138.912	.39	51.88
55.	WLA	Warner-Lambert	8107.375	.38	52.26
56.	DEC	Digital Equipment	7875.267	.37	52.63
57.	HWP	Hewlett-Packard	7830.525	.37	53.01
58.	DNB	Dun & Bradstreet	7730.597	.37	53.37
59.	SCE	SCE Corp	7728.518	.37	53.74
60.	UCL	Unocal Corp	7633.598	.36	54.10
61.	K	Kellogg Co	7519.369	.36	54.46
62.	SO	Southern Co	7426.000	.35	54.81
63.	VO	Seagram Ltd	7338.103	.35	55.16
64.	EMR	Emerson Electric	7303.316	.35	55.50
65.	UNP	Union Pacific	7289.259	.35	55.85
66.	TOY	Toys "R" Us	7091.890	.34	56.19
67.	OXY	Occidental Petroleum	7074.656	.34	56.52
68.	P	Phillips Petroleum	6981.494	.33	56.85
69.	TXU	Texas Utilities	6763.277	.32	57.17
70.	UPJ	Upjohn Co	6677.982	.32	57.49

STANDARD & POOR'S 500—Continued

[Market Value Order, Wednesday, Aug. 22, 1990]

Rank	Ticker	Company	Market Value	Percent of 500	Cumulative (Percent)
71.	TGT	Tenneco Inc	6557.325	.31	57.80
72.	GIS	General Mills	6458.755	.31	58.11
73.	ITT	ITT Corp	6429.555	.30	58.41
74.	FNM	Federal Natl. Mtge	6390.308	.30	58.72
75.	CPB	Campbell Soup	6361.719	.30	59.02
76.	GRN	General Re Corp	6337.950	.30	59.32
77.	ADM	Archer-Daniels Midland	6329.270	.30	59.62
78.	NSC	Norfolk Southern Corp	6304.345	.30	59.92
79.	AMB	American Brands Inc	6291.797	.30	60.22
80.	INTC	Intel Corp	6282.140	.30	60.51
81.	JPM	Morgan (J.P.) & Co	6017.420	.29	60.80
82.	NT	Northern Telecom	6015.422	.29	61.09
83.	CWE	Commonwealth Edison	5984.480	.28	61.37
84.	LTD	Limited, The	5979.780	.28	61.65
85.	UTX	United Technologies	5933.508	.28	61.93
86.	SYN	Suntex Corp	5931.654	.28	62.22
87.	SLE	Sara Lee Corp	5881.168	.28	62.49
88.	CCI	Citicorp	5804.781	.28	62.77
89.	DUK	Duke Power	5735.037	.27	63.04
90.	KMB	Kimberly-Clark	5723.139	.27	63.31
91.	HAL	Halliburton Co	5644.500	.27	63.58
92.	KM	K Mart	5616.309	.27	63.85
93.	MA	May Dept. Stores	5590.258	.27	64.11
94.	JCP	Penney (J.C.)	5573.997	.26	64.38
95.	BAX	Baxter International Inc	5519.789	.26	64.64
96.	CPC	CPC International	5513.040	.26	64.90
97.	ORX	Oryx Energy Inc	5503.418	.26	65.16
98.	BFI	Browning-Ferris Ind	5435.244	.26	65.42
99.	MTC	Monsanto Company	5423.972	.26	65.68
100.	GS	Gillette Corp	5423.600	.26	65.93
101.	ROK	Rockwell International	5338.499	.25	66.19
102.	AEP	American Electric Power	5322.213	.25	66.44
103.	AA	Aluminum Co. of America	5313.352	.25	66.69
104.	UT	United Telecom. of Kansas	5255.188	.25	66.94
105.	RAL	Ralston Purina	5093.089	.24	67 18
106.	IP	International Paper	5081.725	.24	67.42
107.	AET	Aetna Life & Casualty	5051.665	.24	67.66
108.	GCI	Gannett Co	5050.465	.24	67.90
109.	PEG	Public Serv. Enterprise Inc	4987.238	.24	68.14
110.	PPG	PPG Inc	4923.472	.23	68.37
111.	MMC	Marsh & McLennan	4888.755	23	68.60
112.	AGC	American General	4882.237	.23	68.84
113.	AL	Alcan Aluminum	4821.971	.23	69.06
114.	BN	Borden, Inc	4771.581	.23	69.29
115.	ED	Consolidated Edison	4734.133	.22	69.52
116.	ACY	American Cyanamid	4720.299	.22	69.74
117.	HUM	Humana Inc	4670.904	.22	69.96
118.	PPW	PacifiCorp	4664.484	.22	70.18
119.	MES	Melville Corp	4519.416	.21	70.40
120.	PDG	Placer Dome Inc	4490.550	.21	70.61
121.	D	Dominion Resources	4435.753	.21	70.82
122.	ALD	Allied-Signal	4428.000	.21	71.03
123.	TWX	Time Warner Inc	4412.625	.21	71.24
124.	CAT	Caterpillar Inc	4361.017	.21	71.45
125.	PCI	Paramount Comm. Inc	4337.806	.21	71.65
126.	AHC	Amerada Hess	4286.958	.20	71.86
127.	AAPL	Apple Computer	4277.628	.20	72.06
128.	WY	Weyerhaeuser Corp	4274.219	.20	72.26
129.	CBE	Cooper Industries	4266.632	.20	72.46
130.	BAC	BankAmerica Corp	4258.960	.20	72.67
131.	AMP	AMP Inc	4220.697	.20	72.87
132.	CAG	ConAgra Inc	4200.000	.20	73.07
133.	CNA	CNA Financial	4197.526	.20	73.26
134.	RTN	Raytheon Co	4191.478	.20	73.46
135.	CL	Colgate-Palmolive	4163.859	.20	73.66
136.	NCR	NCR Corp	4121.042	.20	73.86
137.	DTE	Detroit Edison	4112.080	.20	74.05
138.	HOU	Houston Industries	4111.575	.20	74.25
139.	ABS	Albertson's	4078.826	.19	74.44
140.	CBS	CBS Inc	4037.841	.19	74.63
141.	BHI	Baker Hughes	4036.882	.19	74.82
142.	DH	Dayton-Hudson	4022.100	.19	75.01
143.	CNG	Consolidated Natural Gas	3989.456	.19	75.20
144.	DE	Deere & Co	3936.764	.19	75.39
145.	ETR	Entergy Corp	3926.846	.19	75.58
146.	FPL	FPL Group	3800.247	.18	75.76
147.	ONE	Banc One Corp	3773.245	.18	75.93

STANDARD & POOR'S 500—Continued

[Market Value Order, Wednesday, Aug. 22, 1990]

Rank	Ticker	Company	Market Value	Percent of 500	Cumulative (Percent)
148.	HON	Honeywell	3689.908	.18	76.11
149.	RLM	Reynolds Metals	3678.460	.17	76.28
150.	XRX	Xerox Corp	3665.387	.17	76.46
151.	CSR	Central & SouthWest	3634.419	.17	76.63
152.	CGP	Coastal Corp	3627.359	.17	76.80
153.	TCOMA	Tele-Communications	3619.152	.17	76.97
154.	CPQ	Compaq Computer	3613.116	.17	77.15
155.	AUD	Automatic Data Processing Inc	3570.075	.17	77.31
156.	NEM	Newmont Mining	3561.100	.17	77.48
157.	HD	Home Depot	3512.868	.17	77.65
158.	GLW	Corning Inc	3509.583	.17	77.82
159.	SUN	Sun Co., Inc	3507.532	.17	77.98
160.	CB	Chubb Corp	3493.374	.17	78.15
161.	GP	Georgia-Pacific	3466.560	.16	78.31
162.	CPL	Carolina Power & Light	3465.644	.16	78.48
163.	SPP	Scott Paper	3392.309	.16	78.64
164.	CI	CIGNA Corp	3362.974	.16	78.80
165.	OAT	Quaker Oats	3290.861	.16	78.95
166.	Z	Wollworth Corp	3241.226	.15	79.11
167.	EY	Ethyl Corp	3237.260	.15	79.26
168.	TMC	Times Mirror	3228.990	.15	79.41
169.	NCB	NCNB Corp	3226.547	.15	79.57
170.	PZL	Pennzoil Co	3196.227	.15	79.72
171.	PE	Philadelphia Electric	3179.640	.15	79.87
172.	DI	Dresser Industries	3160.419	.15	80.02
173.	SPC	Security Pacific Corp	3127.221	.15	80.17
174.	MAS	Masco Corp	3112.400	.15	80.32
175.	UST	UST Inc	3109.407	.15	80.46
176.	HSY	Hershey Foods	3055.051	.14	80.61
177.	DNY	Donnelley (R.R.) & Sons	3053.204	.14	80.75
178.	PA	Primerica Corp	2987.388	.14	80.89
179.	N	Inco, Ltd	2967.287	.14	81.04
180.	MCA	MCA, Inc	2956.926	.14	81.18
181.	BT	Bankers Trust N.Y	2935.554	.14	81.32
182.	CSX	CSX Corp	2919.457	.14	81.45
183.	PBI	Pitney-Bowes	2879.914	.14	81.59
184.	WIN	Winn-Dixie	2826.022	.13	81.72
185.	NME	National Medical Enterprise	2820.033	.13	81.86
186.	AMR	AMR Corp	2817.989	.13	81.99
187.	DDS	Dillard Department Stores	2800.959	.13	82.12
188.	CHL	Chemical Banking Corp	2764.252	.13	82.26
189.	SYY	Sysco Corp	2747.070	.13	82.39
190.	C	Chrysler Corp	2705.088	.13	82.51
191.	SB	Salomon Inc	2689.850	.13	82.64
192.	PET	Pacific Enterprises	2687.566	.13	82.77
193.	WAG	Walgreen Co	2683.679	.13	82.90
194.	WFC	Wells Fargo & Co	2681.438	.13	83.02
195.	GPC	Genuine Parts	2672.577	.13	83.15
196.	SFX	Sante Fe Pacific Corp	2644.339	.13	83.28
197.	ENE	Enron Corp	2636.348	.13	83.40
198.	DAL	Delta Air Lines	2631.810	.12	83.53
199.	DEC	Ohio Edison	2593.673	.12	83.65
200.	RBD	Rubbermaid Inc	2578.240	.12	83.77
201.	STI	SunTrust Banks	2570.888	.12	83.89
202.	FLR	Fluor Corp	2563.350	.12	84.01
203.	TA	Transamerica Corp	2532.528	.12	84.13
204.	TIC	Travelers Corp	2531.204	.12	84.26
205.	APD	Air Products & Chemicals	2523.112	.12	84.37
206.	CHA	Champion International	2509.893	.12	84.49
207.	TRB	Tribune Co	2496.598	.12	84.61
208.	IFF	International Flav/Frag	2483.937	.12	84.73
209.	KMG	Kerr-McGee	2450.788	.12	84.85
210.	BDX	Becton, Dickinson	2414.790	.11	84.96
211.	DLX	Deluxe Corp	2396.588	.11	85.07
212.	TMK	Torchmark Corp	2356.515	.11	85.19
213.	MCL	Moore Corp. Ltd	2346.931	.11	85.30
214.	NIKE	Nike Inc	2317.746	.11	85.41
215.	TRW	TRW Inc	2280.075	.11	85.52
216.	ITW	Illinois Tool Works	2276.555	.11	85.62
217.	MHP	McGraw-Hill	2275.837	.11	85.73
218.	UCC	Union Camp	2264.233	.11	85.84
219.	STPL	St. Paul Cos	2262.993	.11	85.95
220.	HM	Homestake Mining	2247.149	.11	86.05
221.	TAN	Tandy Corp	2242.097	.11	86.16
222.	SNT	Sonat Inc	2239.720	.11	86.27
223.	UK	Union Carbide	2224.453	.11	86.37
224.	PNC	PNC Financial Corp	2214.678	.11	86.48

STANDARD & POOR'S 500—Continued

[Market Value Order, Wednesday, Aug. 22, 1990]

Rank	Ticker	Company	Market Value	Percent of 500	Cumulative (Percent)
225.	TXN	Texas Instruments	2200.608	.10	86.58
226.	TYC	Tyco Labs	2198.336	.10	86.68
227.	UAL	UAL Corp	2183.500	.10	86.79
228.	KRI	Knight-Ridder News	2173.382	.10	86.89
229.	CMB	Chase Manhattan	2153.042	.10	86.99
230.	BNI	Burlington Northern	2139.220	.10	87.09
231.	IR	Ingersoll-Rand	2131.019	.10	87.20
232.	CG	Columbia Gas System	2128.105	.10	87.30
233.	WH	Whitman Corp	2121.854	.10	87.40
234.	AMX	Amax Inc	2109.032	.10	87.50
235.	BGE	Baltimore Gas & Electric	2091.432	.10	87.60
236.	MER	Merrill Lynch	2079.493	.10	87.70
237.	LIZC	Liz Claiborne, Inc	2070.573	.10	87.79
238.	MDT	Medtronic Inc	2066.985	.10	87.89
239.	DOV	Dover Corp	2061.799	.10	87.99
240.	ASC	American Stores	2033.789	.10	88.09
241.	CLX	Clorox Co	2019.136	.10	88.18
242.	HRB	Block H&R	2011.894	.10	88.28
243.	GRA	Grace (W.R.) & Co	2005.365	.10	88.37
244.	NBD	NBD Bancorp Inc	1997.057	.09	88.47
245.	PD	Phelps Dodge	1990.593	.09	88.56
246.	ROH	Rohm & Haas	1990.213	.09	88.66
247.	DJ	Dow Jones & Co	1978.691	.09	88.75
248.	NOBE	Nordstrom	1958.040	.09	88.84
249.	GAP	Great A & P	1943.578	.09	88.93
250.	SAFC	SAFECO Corp	1922.160	.09	89.03
251.	WWY	Wrigley (Wm) Jr	1920.836	.09	89.12
252.	GEB	Gerber Products	1908.613	.09	89.21
253.	FDX	Federal Express	1876.246	.09	89.30
254.	NSP	Northern States Power	1868.412	.09	89.39
255.	NLC	Nalco Chemical	1859.150	.09	89.47
256.	LNC	Lincoln National	1857.560	.09	89.56
257.	CPH	Capital Holding	1857.216	.09	89.65
258.	ETN	Eaton Corp	1850.214	.09	89.74
259.	ASH	Ashland Oil	1845.278	.09	89.82
260.	MHS	Marriott Corp	1837.550	.09	89.91
261.	MHC	Manufacturers Hanover	1835.820	.09	90.00
262.	NOB	Norwest Corp	1816.872	.09	90.09
263.	BOL	Bausch & Lomb	1808.710	.09	90.17
264.	ML	Martin Marietta	1797.545	.09	90.26
265.	GPS	Gap (The)	1783.254	.08	90.34
266.	GWF	Great Western Financial	1782.063	.08	90.43
267.	LIT	Litton Inds	1779.222	.08	90.51
268.	TXT	Textron Inc	1778.960	.08	90.59
269.	LK	Lockheed Corp	1777.303	.08	90.68
270.	JR	James River	1775.528	.08	90.76
271.	NMK	Niagara Mohawk Power	1752.288	.08	90.85
272.	MII	Morton International	1749.336	.08	90.93
273.	ALG	Arkla Inc	1737.480	.08	91.01
274.	ORCL	Oracle Systems	1730.805	.08	91.09
275.	BF.B	Brown-Forman Inc	1713.653	.08	91.17
276.	FG	USF&G Corp	1704.674	.08	91.26
277.	TIN	Temple-Inland	1693.525	.08	91.34
278.	SVU	Super Valu Stores	1689.413	.08	91.42
279.	I	First Interstate Bancorp	1686.684	.08	91.50
280.	CRR	Consolidated Rail	1665.477	.08	91.57
281.	GWW	Grainger (W.W.) Inc	1664.125	.08	91.65
282.	HLT	Hilton Hotels	1662.000	.08	91.73
283.	MD	McDonnell Douglas	1660.265	.08	91.81
284.	ENS	Enserch	1643.118	.08	91.89
285.	PRD	Polaroid Corp	1641.465	.08	91.97
286.	WHR	Whirlpool Corp	1639.575	.08	92.05
287.	FNG	Fleet/Norstar Financial	1632.345	.08	92.12
288.	CCK	Crown Cork & Seal	1625.179	.08	92.20
289.	AHM	Ahmanson (H.F.) & Co	1620.486	.08	92.28
290.	MEA	Mead Corp	1606.339	.08	92.35
291.	PCLB	Price Co	1585.944	.08	92.43
292.	BBI	Barnett Banks Inc	1561.725	.07	92.50
293.	AVP	Avon Products	1555.180	.07	92.58
294.	FTU	First Union Corp	1553.878	.07	92.65
295.	W	Westvaco Corp	1551.612	.07	92.72
296.	MYG	Maytag Co	1543.888	.07	92.80
297.	ECO	Echo Bay Mines Ltd	1510.482	.07	92.87
298.	GFS.A	Giant Food Cl. A	1504.200	.07	92.94
299.	GDW	Golden West Financial	1504.173	.07	93.01
300.	FNB	First Chicago Corp	1460.730	.07	93.08
301.	JP	Jefferson-Pilot	1457.391	.07	93.15

STANDARD & POOR'S 500—Continued

[Market Value Order, Wednesday, Aug. 22, 1990]

Rank	Ticker	Company	Market Value	Percent of 500	Cumulative (Percent)
302.	TDM	Tandem Computers Inc	1448.194	.07	93.22
303.	HPC	Hercules, Inc	1431.074	.07	93.29
304	SOV	Sovran Financial Corp	1426.651	.07	93.35
305	NYT.A	New York Times Cl. A	1415.055	.07	93.42
306	LLX	Louisiana Land & Exploration	1404.400	.07	93.49
307	GT	Goodyear Tire & Rubber	1401.820	.07	93.55
308.	RBK	Reebok International	1394.736	.07	93.62
309	UIS	Unisys Corp	1388.196	.07	93.69
310.	SHW	Sherwin-Williams	1374.673	.07	93.75
311	RAD	Rite Aid	1332.963	.06	93.81
312.	STJM	St. Jude Medical	1331.805	.06	93.88
313.	CA	Computer Associates Intl	1326.069	.06	93.94
314.	NWL	Newell Co	1321.490	.06	94.00
315.	SWK	Stanley Works	1312.019	.06	94.06
316.	PEL	Panhandle Eastern	1298.588	.06	94.13
317.	CIC	Continental Corp	1297.560	.06	94.19
318.	SK	Safety-Kleen	1295.704	.06	94.25
319.	NUE	Nucor Corp	1286.675	.06	94.31
320.	SNA	Snap-On Tools	1285.719	.06	94.37
321.	MCK	McKesson Corp	1285.225	.06	94.43
322.	DCN	Dana Corp	1268.055	.06	94.49
323.	GCN	General Cinema	1247.850	.06	94.55
324.	GAS	NICOR Inc	1240.421	.06	94.61
325.	ROAD	Roadway Service	1223.281	.06	94.67
326.	ASN	Alco Standard	1219.826	.06	94.73
327.	KR	Kroger Co	1218.324	.06	94.78
328.	AMH	Amdah Corp	1216.385	.06	94.84
329.	R	Ryder System	1214.084	.06	94.90
330.	NSI	National Service Ind	1212.904	.06	94.96
331.	MDR	McDermott International	1207.415	.06	95.01
332.	IMA	IMCERA Group Inc	1182.992	.06	95.07
333.	FMC	FMC Corp	1172.966	.06	95.13
334.	LPX	Lousiana Pacific	1164.087	.06	95.18
335.	MXS	Maxus Energy	1159.826	.06	95.24
336.	VFC	V.F. Corp	1154.068	.05	95.29
337.	ACK	Armstrong World	1150.989	.05	95.35
338.	GD	General Dynamics	1143.423	.05	95.40
339.	MST	Mercantile Stores	1142.164	.05	95.45
340.	CMCSA	Comcast Cl. A	1142.141	.05	95.51
341.	HI	Household International	1139.070	.05	95.56
342.	ACAD	Autodesk, Inc	1133.454	.05	95.62
343.	AR	ASARCO Inc	1128.834	.05	95.67
344.	CMY	Community Psych Centers	1123.824	.05	95.72
345.	TDY	Teledyne Inc	1108.300	.05	95.78
346.	EGG	E G & G Inc	1087.388	.05	95.83
347.	PCAR	PACCAR inc	1081.590	.05	95.88
348.	PH	Parker-Hannifin	1075.228	.05	95.93
349.	G	Greyhound Dial Corp	1074.870	.05	95.98
350.	PLL	Pall Corp	1070.234	.05	96.03
351.	BCC	Boise Cascade	1062.628	.05	96.08
352.	TDC	Rowan Cos	1055.165	.05	96.13
353.	SQD	Square "D"	1054.069	.05	96.18
354.	HRS	Harris Corp	1020.791	.05	96.23
355.	WMB	Williams Cos	995.269	.05	96.28
356.	BNL	Beneficial Corp	985.776	.05	96.32
357.	FLM	Fleming Co. Inc	979.453	.05	96.37
358.	TJX	TJX Companies Inc	968.142	.05	96.42
359.	PCH	Potlatch Corp	966.777	.05	96.46
360.	RML	Russell Corp	955.088	.05	96.51
361.	JOS	Jostens Inc	953.400	.05	96.55
362.	CYR	Cray Research	943.092	.04	96.60
363.	GR	Goodrich (B.F.)	930.988	.04	96.64
364.	AGREA	American Greetings Cl A	920.259	.04	96.69
365.	BS	Bethlehem Steel	893.214	.04	96.73
366.	SRV	Service Corp. International	889.038	.04	96.77
367	ESY	E-Systems	888.606	.04	96.81
368.	IAD	Inland Steel Ind. Inc	878.742	.04	96.85
369.	GSX	General Signal	878.370	.04	96.90
370.	JCI	Johnson Controls	876.361	.04	96.94
371	AVY	Avery International	863.499	.04	96.98
372.	AAL	Alexander & Alexander	861.433	.04	97.02
373.	CC	Circuit City Stores	849.524	.04	97.06
374	FFB	First Fidelity Bancorp	848.134	.04	97.10
375.	MEL	Mellon Bank Corp	845.460	.04	97.14
376.	CYM	Cyprus Minerals Co	844.223	.04	97.18
377	LOW	Lowe's Cos	842.894	.04	97.22
378.	TKR	Timken Co	835.325	.04	97.26

STANDARD & POOR'S 500—Continued

[Market Value Order, Wednesday, Aug. 22, 1990]

Rank	Ticker	Company	Market Value	Percent of 500	Cumulative (Percent)
379.	PIN	PSI Resources Inc	832.879	.04	97.30
380.	WTHG	Worthington Ind	832.601	.04	97.34
381.	EC	Engelhard Corp	828.430	.04	97.38
382.	BMS	Bemis Company	820.601	.04	97.42
383.	OG	Ogden Corp	819.989	.04	97.46
384.	HAS	Hasbro Inc	814.615	.04	97.49
385.	ACCDB	Coors (Adolph)	808.238	.04	97.53
386.	BMET	Biomet, Inc	807.969	.04	97.57
387.	HP	Helmerich & Payne	806.874	.04	97.61
388.	MIL	Millipore Corp	804.458	.04	97.65
389.	TNB	Thomas & Betts	799.893	.04	97.68
390.	MAT	Mattel, Inc	794.204	.04	97.72
391.	BC	Brunswick Corp	791.100	.04	97.76
392.	KWP	King World Productions	788.562	.04	97.80
393.	STO	Stone Container	786.188	.04	97.83
394.	JH	Harland (J.H.)	784.316	.04	97.87
395.	RYC	Raychem Corp	778.868	.04	97.91
396.	NOC	Northrop Corp	775.583	.04	97.95
397.	PBY	Pep Boys	756.433	.04	97.98
398.	LOR	Loral Corp	741.443	.04	98.02
399.	LOTS	Lotus Development	725.897	.03	98.05
400.	NAV	Navistar International Corp	723.824	.03	98.09
401.	FWC	Foster Wheeler	720.379	.03	98.12
402.	LDG	Longs Drug Stores	719.719	.03	98.15
403.	NL	NL Industries	718.413	.03	98.19
404.	FBO	Federal Paper Board	717.824	.03	98.22
405.	BCR	Bard (C.R.) Inc	714.690	.03	98.26
406.	INGR	Intergraph Corp	710.890	.03	98.29
407.	BDK	Black & Decker Corp	706.968	.03	98.32
408.	OCF	Owens-Corning Fiberglass	706.265	.03	98.36
409.	PGL	Peoples Energy	694.216	.03	98.39
410.	PKN	Perkin-Elmer	688.318	.03	98.42
411.	BLL	Ball Corp	685.920	.03	98.45
412.	WAN.B	Wang Labs Cl.B	679.268	.03	98.49
413.	WETT	Wetterau Inc	676.348	.03	98.52
414.	BKB	Bank of Boston	667.819	.03	98.55
415.	U	USAir Group	662.325	.03	98.58
416.	YELL	Yellow Freight Systems	661.765	.03	98.61
417.	CR	Crane Company	652.064	.03	98.64
418.	SNC	Shawmut National	649.535	.03	98.68
419.	PCO	Pittston Co	645.823	.03	98.71
420.	REN	Rollins Environmental	630.042	.03	98.74
421.	CSC	Computer Sciences Corp	624.409	.03	98.77
422.	ACV	Alberto-Culver	612.750	.03	98.79
423.	ECH	Echlin Inc	606.705	.03	98.82
424.	EFU	Eastern Enterprises	600.636	.03	98.85
425.	AS	Armco Inc	597.112	.03	98.88
426.	SRR	Stride Rite	577.171	.03	98.91
427.	PMI	Premark International	561.446	.03	98.93
428.	VAT	Varity Corp	555.689	.03	98.96
429.	WEN	Wendy's International	554.766	.03	98.99
430.	TNV	Trinova Corp	548.643	.03	99.01
431.	USH	USLIFE Corp	545.297	.03	99.04
432.	CDA	Control Data	544.604	.03	99.06
433.	CTB	Cooper Tire & Rubber	534.690	.03	99.09
434.	CBL	Corroon & Black	532.446	.03	99.11
435.	LUB	Luby's Cafeterias	523.413	.02	99.14
436.	MRN	Morrison Knudsen	518.518	.02	99.16
437.	ZRN	Zurn Industries	511.031	.02	99.19
438.	ECL	Ecolab Inc	502.526	.02	99.21
439.	HPH	Harnischfeger Indus	497.028	.02	99.24
440.	GQ	Grumman Corp	488.141	.02	99.26
441.	NSM	National Semiconductor	487.103	.02	99.28
442.	CKL	Clark Equipment	474.459	.02	99.30
443.	CTX	Centex Corp	471.063	.02	99.33
444.	NC	Nacco Ind. Cl. A	452.676	.02	99.35
445.	AMD	Advanced Micro Devices	448.987	.02	99.37
446.	BG	Brown Group	443.657	.02	99.39
447.	PRI	Promus Inc	442.607	.02	99.41
448.	MDP	Meredith Corp	436.842	.02	99.43
449.	SHN	Shoney's Inc	433.780	.02	99.45
450.	CUM	Cummin's Engine Co., Inc	427.061	.02	99.47
451.	MNR	Manor Care	419.155	.02	99.49
452.	FLE	Fleetwood Enterprises	418.275	.02	99.51
453.	CMZ	Cincinnati Milacron	409.905	.02	99.53
454.	SFA	Scientific-Atlanta	401.598	.02	99.55
455.	SMI	Springs Industries Inc	400.191	.02	99.57

STANDARD & POOR'S 500—Continued

[Market Value Order, Wednesday, Aug. 22, 1990]

Rank	Ticker	Company	Market Value	Percent of 500	Cumulative (Percent)
456.	CNF	Consolidated Freightways	397.932	.02	99.59
457.	CHRS	Charming Shoppes	387.237	.02	99.61
458.	DIGI	DSC Communications	386.627	.02	99.63
459.	GOSHA	Oshkosh B'Gosh	386.529	.02	99.64
460.	OKE	ONEOK Inc	378.437	.02	99.66
461.	TEK	Tektronix Inc	363.563	.02	99.68
462.	BGG	Briggs & Stratton	354.368	.02	99.70
463.	NII	National Intergroup	348.032	.02	99.71
464.	BEV	Beverly Enterprises	336.315	.02	99.73
465.	SPW	SPX Corp	320.292	.02	99.74
466.	SMED	Shared Medical Systems	314.146	.01	99.76
467.	HDL	Handleman Co	301.902	.01	99.77
468.	RYAN	Ryan's Family Steak Hse	301.059	.01	99.79
469.	CUE	Quantum Chemical Corp	299.978	.01	99.80
470.	OM	Outboard Marine	276.849	.01	99.82
471.	BSET	Bassett Furniture	273.375	.01	99.83
472.	PN	Pan Am Corp	258.396	.01	99.84
473.	FRM	First Mississippi Corp	223.507	.01	99.85
474.	WMOR	Westmoreland Coal	220.688	.01	99.86
475.	HMX	Hartmarx Corp	198.501	.01	99.87
476.	KBH	Kaufman & Broad Home Corp	183.274	.01	99.88
477.	ANDW	Andrew Corp	182.445	.01	99.89
478.	BLY	Bally Manufacturing Corp	178.392	.01	99.90
479.	FJQ	Fedders Corp	177.177	.01	99.90
480.	ZE	Zenith Electronics	167.031	.01	99.91
481.	DGN	Data General	162.404	.01	99.92
482.	PHM	PHM Corp	155.688	.01	99.93
483.	HBJ	Harcourt Brace/Jov	154.872	.01	99.94
484.	SKY	Skyline Corp	152.832	.01	99.94
485.	PDQ	Prime Motor Inns	144.449	.01	99.95
486.	USG	USG Corp	135.390	.01	99.96
487.	NEC	National Education	129.487	.01	99.96
488.	LCE	Lone Star Industries	122.123	.01	99.97
489.	MAI	M/A Com. Inc	101.174	.00	99.97
490.	CHH	Carter Hawley Hale	100.622	.00	99.98
491.	GCO	Genesco Inc	82.146	.00	99.98
492.	TKA	Tonka Corp	70.517	.00	99.98
493.	CTCO	Cross & Trecker	65.063	.00	99.99
494.	IK	Interlake Corp	63.691	.00	99.99
495.	BNS	Brown & Sharpe Co	57.633	.00	99.99
496.	MMO	Monarch Machine Tool	44.994	.00	100.00
497.	AMT	Acme-Cleveland Corp	42.464	.00	100.00
498.	UH	United States Home	27.519	.00	100.00
499.	DPT	Datapoint	13.912	.00	100.00
500.	ISS	INTERCO, Inc	9.677	.00	100.00
		Total Market Value	2,108,256.518		

[Rel. No. 34-28402; File No. SR-MSE-90-14]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by the Midwest Stock Exchange, Inc. Relating to Its Member Transaction Fee Schedule

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C., 78s(b)(1), notice is hereby given that on August 13, 1990, the Midwest Stock Exchange, Inc. ("MSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The MSE proposes to amend Section (c), subparagraphs (1) and (2), of the Transaction Fee Schedule of its Membership Dues and Fees by waiving all Item Charges and Value Charges for all transactions in Tape B eligible issues.[1] This fee waiver will apply only to firms sending orders in Tape B eligible securities to the floor of the MSE and will be limited in time to the period beginning with the effectiveness of this submission through December 31, 1990.[2]

[1] The Consolidated Tape, operated by the Consolidated Tape Association ("CTA"), compiles current last sale reports in certain listed securities from all exchanges and market makers trading such securities and disseminates these reports to vendors on a consolidated basis. The CTA is comprised of the New York, American ("Amex"), Boston, Cincinnati, Midwest, Pacific, and Philadelphia Stock Exchanges, and the National Association of Securities Dealers, Inc. Amex listed stocks and qualifying regional listed stocks are reported on CTA Tape B. Securities Exchange Act Release No. 21583 (December 18, 1984), 50 FR 730 (January 7, 1985).

[2] The current MSE fees under this section are set forth below:

(1) Item Charge

Shares/Trade	Rate
1–99	$.25 (per trade).
100–500	$.25 (per 100 shares).
501-and over	$1.25 (per trade).

(2) Value Charge

Total Gross Dollar Value/Month (in millions)	Rate (per $1,000)
0.0–10.0	$16.0

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections, A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to attract additional order flow in Tape B eligible securities and enhance the competitive position of the Exchange in these issues.

The proposed rule change is consistent with section 6(b)(4) of the Act in that the waiver of these fees does not affect the existing equitable allocation of dues, fees, and other charges among Exchange members using the Exchange's facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange and therefore 19(b)(3)(A) of the Act and subparagraph (e) of rule 19b–4 thereunder. At any time within 60 days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all statements with respect to the proposed rule change that are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the MSE. All submissions should refer to File No. SR–MSE–90–14 and should be submitted by October 2, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 31, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–21192 Filed 9–10–90; 8:45 am]

BILLING CODE 8010–01–M

Total Gross Dollar Value/Month (in millions)	Rate (per $1,000)
25.1–125.0	8.5
125.1–250.0	8.0
250.1–350.0	7.5
350.1–450.0	6.5
450.1–550.0	4.5
550.1–1,000.00	2.5
Over 1,000	1.5

In calculating the value charge (1) the valuation of the first 500 shares per trade will not be included, (2) only the first 50,000 shares will be valued on cross orders, and (3) only the first 50,000 shares will be valued on non-cross trades.

[Rel. No. 34–28399; International Series Rel. No. 148; File No. SR–NYSE–90–37)

Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval of Proposed Rule Change by the New York Stock Exchange, Inc., Relating to Listing of Index Warrants Based on the Financial Times-Stock Exchange 100 Index

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 1, 1990, the New York Stock Exchange ("NYSE" OR "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Under § 703.17 of the NYSE Listed Company Manual, the NYSE proposes to list index warrants based on the Financial Times-Stock Exchange 100 Index ("FT-SE 100 Index" or "Index"). The NYSE is submitting its proposal pursuant to the requirements of a 1990 rule change by the NYSE that permitted the Exchange to list index warrants based on established market indexes, both foreign and domestic.[1]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In June 1990, the Commission approved amendments to the NYSE's rules permitting the listing of index warrants based on established market indexes, both domestic and foreign. In approving the aforementioned amendments, the Commission stated that the NYSE would be required to submit for Commission approval any specific index warrants that it proposed to trade. Accordingly, the NYSE is submitting the proposed rule change pursuant to the Index Warrant Approval Order to allow the Exchange to list and trade warrants based on the FT-SE 100 Index.

[1] *See* Securities Exchange Act Release No. 28153 (June 26, 1990), 55 FR 27743 (order approving File No. SR–NYSE–90–7) ("Index Warrant Approval Order"). The Index Warrant Approval Order sets forth generic listing standards for warrants based on domestic and international market indexes and certain sales practice rules for trading of these warrants.

The FT-SE 100 Index is an internationally recognized, capitalization-weighted stock index based on the prices or 100 of the most highly capitalized and actively traded British stocks traded on the International Stock Exchange of the United Kingdom and the Republic of Ireland ("ISE"). The Index is updated each minute form 9 a.m. to 5 p.m. (London time).[2]

Consistent with the Index Warrant Approval Order, the NYSE states that the FT-SE 100 warrant issues will conform to the listing guidelines set forth in § 703.17 of the Listed Company Manual, which provide that: (1) The issuer shall have assets in excess of $100,000,000 and otherwise substantially exceed the size and earnings requirements in Section 102.01 of the listed Company Manual; (2) the term of the warrants shall be for a period of at least one year; (3) the minimum public distribution of such issues shall be 1,100,000 warrants, together with a minimum of 400 public holders, and have an aggregate market value of $4,000,000.

FT-SE 100 Index warrants will be direct obligations of their issuer subject to cash settlement in U.S. dollars, and either exercisable throughout their life (*i.e.*, American-style) or exercisable only on their expiration date (*i.e.*, European-style). Upon exercise, or at the warrant expiration date (if not exercisable prior to such date), the holder of a warrant structured as a "put" would receive payment in U.S. dollars to the extent that the FT-SE 100 Index has declined below a pre-stated cash settlement value. Conversely, holders of a warrant structures as a "call" would, upon exercise or at expiration, receive payment in U.S. dollars to the extent that the FT-SE 100 Index has increased above the pre-stated cash settlement value. If "out-of-the-money" at the time of expiration, the warrants would expire worthless.

The NYSE has adopted suitablility standards applicable to recommendations to customers of index warrants and transactions in customer accounts. Exchange rule 405, Supplementary Material .30 applies the options suitability standard in rule 723 to recommendations regarding index warrants and recommends that index warrants be sold only to options-approved accounts. The suitability standard requires that a member or member organization have reasonable grounds to believe that a recommended index warrant transaction is suitable for a customer and that the customer is able to evaluate and bear the risks of a proposed transaction. Rule 408, Supplementary Material .10 requires a Senior Registered Options Principal or a Registered Options Principal to approve and initial a discretionary order in index warrants on the day entered. In addition, prior to the commencement of trading, the NYSE will distribute a circular to its membership calling attention to specific risks associated with warrants on the FT-SE 100.

In the Index Warrant Approval Order, the Commission noted that, with respect to foreign index warrants, there should be an adequate mechanism for sharing surveillance information with respect to the index's component stocks. In this regard, the NYSE has entered into a Memorandum of Understanding relating to information sharing with The Securities Association ("TSA").[3] The Exchange believes that this Memorandum is an appropriate and sufficient sharing agreement for the purpose of accommodating FT–SE 100 warrant trading on the Exchange.

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act in general and furthers the objectives of section 6(b)(5) in particular in that the proposal is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade, and is not designed to permit unfair discrimination among customers, issuers, brokers and dealers.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The NYSE believes that the proposed rule change will impose no burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The NYSE has requested that the proposed rule change be given accelerated effectiveness pursuant to section 19(b)(2) of the Act.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5).[4] Specifically, the Commission believes, as it did when approving the NYSE's framework for index warrants, that index warrants, such as the FT–SE 100 warrants, are an innovative financing technique that will benefit U.S. investors by proving them with an alternative investment vehicle. The FT–SE 100 warrants will enable investors to obtain differential rates of return on a capital outlay if the FT–SE 100 moves in a favorable direction within a specified time period.[5]

The Commission also believes that the FT–SE 100 warrants are consistent with its generic Index Warrant Approval Order. Because the FT–SE 100 is a broad-based index of actively traded, well-capitalized stocks, the trading of cash-settled warrants on the FT–SE 100 on the NYSE does not raise unique regulatory concerns. The Commission notes that the NYSE rules and procedures that address the special concerns attendant to the secondary trading of index warrants will be applicable to the FT–SE 100 warrants. In particular, by imposing the special suitability, disclosure, and compliance requirements noted above, the NYSE has addressed adequately potential public customer problems that could arise from the derivative nature of FT–SE 100 warrants. Moreover, the NYSE plans to distribute a circular to its membership calling attention to the specific risks associated with warrants on the FT–SE 100 and, pursuant to § 703.17 of the NYSE Listed Company Manual, only substantial companies capable of meeting their warrant obligations will be eligible to issue FT–SE 100 warrants.

In light of the fact that the FT–SE 100 is a foreign index, the Commission believes that an adequate surveillance sharing agreement between the NYSE and TSA is a necessary prerequisite to deter and detect potential manipulation or other improper or illegal trading involving the warrants. To address this concern, the NYSE entered into a Memorandum of Understanding ("Memorandum") with TSA in August 1990 that is broad enough to include the sharing of market information related to

[2] For a more complete description of the FT-SE 100 Index, *see* Securities Exchange Act Release No. 27769 (March 6, 1990), 55 FR 9380 (order approving file No. SR–AMEX–90–3).

[3] TSA is the self-regulatory organization responsible for regulating the U.K. equity securities market. All ISE members must be members of TSA. TSA also includes members which may not be active on the ISE.

[4] 15 U.S.C. 78(b)(5)(1984).

[5] Of course, if the FT–SE 100 moves in the wrong direction or fails to move in the right direction, the warrants will expire worthless and the investors will have lost their entire investment.

the trading of FT–SE 100 warrants on the NYSE.[6] This Memorandum obligates the NYSE and TSA to use their best efforts to obtain and to provide the other party with information necessary for the other party to fulfill its regulatory responsibilities. Accordingly, the Commission believes the Memorandum between the NYSE and TSA is adequate to provide an oversight framework regarding potential manipulation or other trading abuses between the markets with respect to the trading of FT–SE 100 warrants.

Finally, the Commission believes that trading in the FT–SE 100 warrants will not have an adverse impact on U.S. financial markets. In fact, the Commission believes the FT–SE 100 warrants will benefit U.S. investors by affording them an opportunity to better hedge against stock market fluctuations in the United Kingdom.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. In addition to the Commission's finding that the listing of FT–SE 100 warrants on the NYSE will not have an adverse impact on U.S. financial markets, the Commission notes that it has previously solicited comments on the NYSE listing guidelines applicable to index warrants based on established market indexes.[7] The Commission did not receive any comments in connection with that filing. In addition, the Commission previously has solicited comments on proposals by the American Stock Exchange and the Pacific Stock Exhcange, and did not receive any comments with respect to those proposals.[8] The Commission believes that the issues raised by the proposed rule change are substantially the same as the issues raised in these filings. Accordingly, because the Commission has not received any negative comments regarding the trading of index warants on the NYSE, or FT–SE 100 warrants on other U.S. exchanges, and since the Commission has evaluated the FT–SE 100 Index and concluded that it is a well-followed, highly capitalized index, the Commission believes it is consistent with section 6(b)(5) of the Act to approve the NYSE's proposal on an accelerated basis given the large public interest in trading index warrants.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by October 10, 1990.

It is therefore ordered, pursuant to section 19(b)(2) of the Act[9] that the proposed rule change (SR–NYSE–90–37) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Dated: August 30, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–21193 Filed 9–10–90; 8:45 am]

BILLING CODE 8010–01–M

---

[6] *See* Memorandum of Understanding Concerning the Provision of Information for the Purpose of Regulation and Enforcement between the NYSE and TSA, dated August 1, 1990. The Memorandum of Understanding relates to the provision of information concerning any security or derivative instrument traded through the facilities of the NYSE and to securities, options on securities or any other derivative or underlying instruments traded by members of TSA. Accordingly, the Memorandum allows for the provision of information relating to the FT–SE 100 warrants or any securities underlying the FT–SE 100 warrants.

[7] Securities Exchange Act Release No. 27796 (March 13, 1990), 55 FR 10340. As originally filed, the proposed rule change would only have created a regulatory framework applicable to warrants based on the NYSE Composite Index ("NYA warrants"). On April 23, 1990, the Exchange amended the filing to provide that the regulatory framework proposed for NYA warrants would apply to all index warrants.

[8] *See* Securities Exchange Act Release No. 27769, *supra* n. 1 (order approving SR–AMEX–90–3) and Securities Exchange Act Release No. 28106 (June 12, 1990), 55 FR 24955 (order approving SR–PSE–90–15).

[9] 15 U.S.C. 78f(b) (1984).

[10] 17 CFR 200.30–3(a)(12) (1989).

DEPARTMENT OF STATE

Office of the Legal Adviser

[Public Notice 1259]

Claims Against Property in the German Democratic Republic

The German Democratic Republic (GDR) published on July 27 a law providing for the registration of individuals' and corporations' claims (including claims of non-German nationals) to property expropriated or placed under state administration by the communist government of the GDR. The law is the first step in the implementation of a June 15 joint declaration of the GDR and the Federal Republic of Germany, in which the two governments announced their intention to return to private ownership (or pay compensation for) property expropriated by the GDR.

The law initially set a deadline for filing claims of January 31, 1991. The GDR has since moved the filing deadline to October 13, 1990 in the interest of settling property issues quickly, a prerequisite to GDR economic development. This law concerns only the registration of claims. Later laws will provide standards for adjudicating claims and the mechanism by which the claims will be considered. These issues might not be resolved before the unification of Germany.

The U.S. Government has pursued a lump-sum settlement of certain claims of U.S. citizens against the GDR, and will continue to pursue a settlement. However, all individuals with property claims may wish to consider filing under the new German law.

Anyone who wishes to receive more information, including information on how to file a claim, may contact the Foreign Claims Settlement Commission, Washington, DC 20579, Attn: David Bradley, Chief Counsel (Tel: 202–653–5883), or the Assistant Legal Adviser for International Claims and Investment Disputes, 2100 K Street NW., Washington, DC 20037–7180 (Tel: 202–632–5040).

Dated: August 31, 1990.

Ronald J. Bettauer,

Assistant Legal Adviser for International Claims and Investment Disputes.

[FR Doc. 90–21231 Filed 9–10–90; 8:45 am]

BILLING CODE 4710–08–M

[Public Notice 1258]

Claims Against Property in Nicaragua

The Government of Nicaragua has issued a decree which established a National Commission to Review Confiscations for the review of claims arising from confiscation or other taking by the previous government of property located in Nicaragua. This is a program which the Government of Nicaragua has undertaken; the United States Government does not have any official role or responsibility in this program. Persons with claims against the Government of Nicaragua for property losses are advised that they have less than two months to register their claims. The deadline for all such registrations is November 6, 1990. All persons who wish to preserve their right to make a claim based on a taking of property are, therefore, urged to immediately file their claims with the National Commission to Review Confiscations through the Embassy of Nicaragua, 1627 New Hampshire Avenue, NW., Washington, DC 20009, Attention: Janeth Gaitan. Alternatively, they can be sent directly to the Commission in Managua, at Apartado Postal 2361, Managua, Nicaragua.

For further information or copies of the decree governing the procedures for the National Commission to Review Confiscations, contact the Embassy of Nicaragua, 1627 New Hampshire Avenue, NW., Washington, DC 20009. Telephone: (202) 939–6570.

Dated: August 31, 1990.

Ronald J. Bettauer,

Assistant Legal Adviser for International Claims and Investment Disputes.

[FR Doc. 90–21232 Filed 9–10–90; 8:45 am]

BILLING CODE 4710–08–M

Study Group 4 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 4 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will hold an open meeting on September 19, 1990, at the Communications Satellite Corporation, 950 L'Enfant Plaza, SW., Washington, DC, from 9 a.m. to 12 a.m. in the 8th floor Conference room.

Study Group 4 deals with matters relating to the fixed satellite service. The purpose of the meeting is to organize work for the next four-year study cycle.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Request for further information should be directed to Mr. Hans Weiss, Communications Satellite Corporation, 22300 Comsat Drive, Clarksburg, MD 20871, phone (301) 428–4777, telefax (301) 4428–7747

Dated: August 23, 1990.

Warren G. Richards,

Chairman, U.S. CCIR National Committee.

[FR Doc. 90–21230 Filed 9–10–90; 8:45 am]

BILLING CODE 4710–07–M

[No. 1257]

Oceans and International Environmental and Scientific Affairs Advisory Committee; Partially Closed Meeting

The Antarctic Section of the Oceans and International Environmental and Scientific Affairs Advisory Committee will meet at 2 p.m., September 25, 1990, in room 1205, Department of State, 22nd and C Streets, NW., Washington, DC.

At this meeting, officers responsible for Antarctic affairs in the Department of State will discuss the preparations for the two special meetings in Santiago, Chile, November 19–December 7 called for at the Fifteenth Antarctic Treaty Consultative Meeting; the first to discuss the implementation of a comprehensive system for the protection of the Antarctic environment, the second to elaborate the liability protocol as called for in the Antarctic Minerals Convention. Department officials will be prepared to discuss other key issues and problems involving the Antarctic in the context of current domestic and international developments. This session will be open to the public. The public will be admitted to the session to the limits of seating capacity and will be given the opportunity to participate in discussion according to the instructions of the Chairman. As access to the Department of State is controlled, persons wishing to attend the meeting should enter the Department through the Diplomatic ("C" Street) Entrance.

Department officials will be at the Diplomatic Entrance to escort attendees.

The Antarctic Section of the Oceans and International Environmental and Scientific Affairs Advisory Committee will also meet on September 24, in room 1205, Department of State, 22nd and C Streets, NW. The purpose of these discussions will be to elicit views concerning the further development of United States policy regarding current Antarctic issues, particularly preparations for the two special meetings in Santiago, Chile, November 19–December 7, called for at the Fifteenth Antarctic Treaty Consultative Meeting. The meeting will include classified briefings and examination and discussion of classified documents pursuant to Executive Order 12356. The disclosure of classified material and revelation of considerations which go into policy development would substantially undermine and frustrate the U.S. position in future meetings and negotiations. Therefore, the meeting will not be open to the public, pursuant to section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b (c)(1) and 5 U.S.C. 552b (c)(9)(B).

Requests for further information on the meetings should be directed to R. Tucker Scully of OES/OA, room 5801, Department of State. He may be reached by telephone on (202) 647–3262

Richard J. Smith,

Acting Chairman.

[FR Doc. 90–21234 Filed 9–10–90; 8:45 am]

BILLING CODE 4710–09–M

[No. 1263]

Shipping Coordinating Committee on Ocean Dumping; Meeting

The Committee on Ocean Dumping, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting on October 3, 1990 from 10 a.m. to 12 noon to review the agenda and seek public input to developing positions for the Thirteenth Consultative Meeting of Contracting Parties to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (LDC 13, October 29–November 2, 1990). In addition, the outcome of the Scientific Group on Dumping (SGD 13, April 23–27, 1990) and Steering Group on a Long-Term Strategy for the London Dumping Convention (STRAT 1, April 17–20, 1990) will be reviewed.

The meeting will be held at the Environmental Protection Agency, Fairchild Building, 499 South Capital Street, SW., Washington, DC 20003 in the Office of Marine and Estuarine Protection Conference room on the 8th floor.

For further information, please contact Mrs. Ellen Delaney, Office of Marine and Estuarine protection, Telephone 202/475–9798.

Dated: August 29, 1990.

Thomas J. Wajda,

Chairman, Shipping Coordinating Committee.

[FR Doc. 90–21233 Filed 9–10–90; 8:45 am]

BILLING CODE 4710–09–M

[No. 1261]

Shipping Coordinating Committee, Notice of Meeting; Subcommittee on Safety of Life at Sea, Working Group on Bulk Chemicals

The Working Group on Bulk Chemicals of the Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting on September 14, 1990 at 9:30 a.m. in room 2415 at Coast Guard Headquarters, 2100 2nd Street, SW., Washington, DC 20593.

The purpose of this meeting is to discuss the upcoming International Maritime Organization (IMO) Twentieth Session of the Subcommittee on Bulk Chemicals and associated agenda items—

—Evaluation of safety and pollution hazards of chemicals.
—Implementation and interpretation of the provisions of Annex II of MARPOL 73/78 and of the BCH and the IBC Codes insofar as marine pollutants are concerned.
—Preparation of a comprehensive table of hazardous liquid substances carried in bulk under the requirements of Annex II of MARPOL 73/78 and the bulk chemical codes.
—Interpretation of the provisions of the BCH, IBC, GC, and IGC Codes including review of IACS unified interpretations.
—Filling limits for cargo tanks in the Gas Carrier Codes.
—Guidelines for technical assessment for intervention under the 1969 Intervention Convention and the 1973 Intervention Protocol.
—Review of hazards of solvent washing and recycling techniques of chemical tankers.
—Vapor emission control systems.
—Health problems caused by the use of contaminated fuel oil on board ships.
—Preparation of the first set of amendments to the IGC Code.
—Preparation of amendments to the IBC and the BCH Codes and MARPOL 73/78.

Members of the public may attend up to the seating capacity of the room. For information contact Dr. Michael C. Parnarouskis, U.S. Coast Guard Headquarters (G–MTH–1), 2100 Second Street, SW., Washington, DC 20593–0001. *Telephone:* (202) 267–1217.

Dated: August 27, 1990.

Thomas J. Wajda,

Chairman, Shipping Coordinating Committee.

[FR Doc. 90–21228 Filed 9–10–90; 8:45 am]

BILLING CODE 4710–07–M

[No. 1260]

Shipping Coordinating Committee, Notice of Meeting; Subcommittee on Safety of Life at Sea, Working Group on the Carriage of Dangerous Goods

The Working Group on the Carriage of Dangerous Goods of the Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting on September 18, 1990 at 9:30 a.m. in room 2415 at Coast Guard Headquarters, 2100 2nd Street, SW., Washington, DC 20593.

The purpose of this meeting is to discuss the upcoming International Maritime Organization (IMO) Forty-second Session of the Sub-Committee on the Carriage of Dangerous Goods and associated agenda items—

—The International Maritime Dangerous Goods (IMDG) Code:
—Amendments to the IMDG Code.
—Implementation of the IMDG Code.
—Development of new subsections to cover the transport in portable tanks of solidified, molten and heated dangerous substances.
—Revision of temperature control requirements.
—Development of criteria for stowage and segregation requirements.
—Development of criteria of the hermetic sealing of receptacles, packages and IBCs.
—Development of a revised dangerous goods declaration form.
—Development of an Annex I glossary and illustrations.
—Transboundary movement of wastes by sea.
—Stowage and segregation in open-top container ships.
—Amendments to the Emergency Procedures for Ships Carrying Dangerous Goods (EmS) and the Medical First Aid Guide for Use in Accidents Involving Dangerous Goods (MFAG).
—Implementation of Annex III of MARPOL 73/78 and immersion test criteria.
—Development of incident reporting and search and recovery guidelines.
—Irradiated nuclear fuel requirements.
—Dangerous goods on vehicle decks of passenger vessels.
—Ships' stores of a hazardous nature.
—Proposed SOLAS chapter VII and MARPOL Annex III amendments.
—Review of current IMO resolutions and circulars.
—Review of adequacy of IMO instruments in preventing and mitigating the effect of marine pollution incidents.
—Relations with other organizations.
—Role of the human element in maritime casualties.
—Marking of explosives for detectability.
—Any other business.

Members of the public may attend up to the seating capacity of the room. For information contact Lieutenant Commander Phillip C. Olenik, U.S. Coast Guard Headquarters (G–MTH–1), 2100 Second Street, SW., Washington, DC 20593. *Telephone:* (202) 267–1577.

Dated: August 27, 1990.

Thomas J. Wajda,

Chairman, Shipping Coordinating Committee.

[FR Doc. 90–21229 Filed 9–10–90; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ended August 31, 1990

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 47143.
Date filed: August 28, 1990.
Parties: Members of the International Air Transport Association.
Subject: North Atlantic-Middle East Resolutions.
Proposed Effective Date: October 15, 1990.

Docket Number: 47145.
Date filed: August 29, 1990.
Parties: Members of the International Air Transport Association.
Subject: USA-Europe Agreement.
Proposed Effective Date: November 1, 1990.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 90–21197 Filed 9–10–90; 8:45 am]

BILLING CODE 4910–62–M

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended August 31, 1990

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et seq.*). The due date for answers conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures.

Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket number: 46475.

Date filed: August 30, 1990.

Due date for answers, conforming applications, or motion to modify scope: September 27, 1990.

Description: Amendment to the Application of Transbrasil S.A. Linhas Aereas, for a foreign air carrier permit. (Supplemental Information)

Docket number: 46308.

Date filed: August 31, 1990.

Due date for answers, conforming applications, or motion to modify scope: September 28, 1990.

Description: Amendment to the Application of Aeroejecutivos, C.A., for a foreign air carrier permit pursuant to section 402 of the Act and subpart Q of the Act by amending paragraph 5 of the original application.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 90-21196 Filed 9-10-90; 8:45 am]

BILLING CODE 4910-62-M

Order Instituting; U.S.-U.S.S.R North Atlantic Combination Service Case and U.S.-U.S.S.R. North Atlantic All-Cargo Service Case

AGENCY: Department of Transportation, OST.

ACTION: Institution of two certificate proceedings to award new U.S.-U.S.S.R. authority: (a) The *U.S.-U.S.S.R. North Atlantic Combination Service Case,* in Docket 47149 and (b) the *U.S.-U.S.S.R. North Pacific All-Cargo Service Case,* in Docket 47150. Institution of a show-cause proceeding to decide the U.S.-U.S.S.R. certificate applications of Alaska Airlines, Inc., and Federal Express Corp. in Dockets 45390 and 47023, respectively. Order 90-9-1.

SUMMARY: Under the recently amended United States-Union of Soviet Socialist Republics Air Transport Agreement, the United States may designate four combination carriers, in addition to Pan American, and two all-cargo carriers for U.S.-U.S.S.R. service on a North Atlantic routing and a North Pacific routing, subject to certain frequency limitations, from April 1, 1991, through March 31, 1993. By Notice dated June 14, 1991, the Department invited interested persons to file certificate applications for the new U.S.-U.S.S.R. route opportunities. Fourteen applicants requested new or expanded U.S.-U.S.S.R. certificate authority. Nine applicants—Delta, United, American, Continental, TWA, Pan American, Northwest, American Trans Air, and Baltia—propose combination service on a North Atlantic routing; one applicant—Alaska Airlines—proposes such service on a North Pacific routing. Three all-cargo applicants—Amerijet International, Evergreen International, and Northern Air Cargo—propose service on a North Pacific routing; one—Federal Express—proposes all-cargo service on a North Atlantic routing.

The Department has tentatively decided to grant the applications of Alaska Airlines and Federal Express for certificate authority and the requisite frequencies to operate Anchorage-Magadan/Khabarovsk combination and New York-Moscow all-cargo service, respectively, from April 1, 1991, through March 31, 1993.

In addition, the Department has decided to institute two proceedings to consider the competitive applications for the remaining authorities and frequencies available under the Agreement: (a) The *U.S.-U.S.S.R. North Atlantic Combination Service Case,* an oral evidentiary hearing proceeding before an Administrative Law Judge, to select three primary and three backup carriers for certification to operate scheduled combination service between the United States and the Union of Soviet Socialist Republics on a North Atlantic routing; and (b) the *U.S.-U.S.S.R. North Pacific All-Cargo Service Case,* using expedited, non-oral procedures, to select one primary and one backup carrier for certification to operate scheduled all-cargo service on a North Pacific routing to the Soviet Union.

DATES: Motions to consolidate and petitions for leave to intervene in the *U.S.-U.S.S.R. North Atlantic Combination Service Case,* Docket 47149, petitions for reconsideration of the Department's order, and objections to the show-cause portion of that order are due not later than September 19, 1990. Answers are due not later than September 24, 1990.

ADDRESS: Motions to consolidate and petitions for leave to intervene and petitions for reconsideration should be filed in the applicable proceeding dockets, addressed to the Documentary Services Division (C-55), U.S. Department of Transportation, 400 Seventh Street, SW., room 4107, Washington, DC 20590, and should be served on the Department's Office of Administrative Law Judges (M-50) and Mr. Robert Goldner (P-7) at the same address, and all parties in the applicable dockets.

Dated: September 5, 1990.

Jeffrey N. Shane,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 90-21195 Filed 9-10-90; 8:45 am]

BILLING CODE 4910-62-M

Coast Guard

[CGD8 90-20]

Lower Mississippi River Waterway Safety Advisory Committee Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L 92-403; 5 U.S.C. App I) notice is hereby given of a meeting of the Lower Mississippi River Waterway Safety Advisory Committee. The meeting will be held on Tuesday, October 16, 1990, in the 29th Floor Boardroom of the World Trade Center, 2 Canal Street, New Orleans, Louisiana at 9 a.m. The agenda for the meeting consists of the following items:

1. Call to Order.
2. Minutes of the July 10, 1990 meeting.
3. Update on past resolutions.
   a. Fishing vessels in the Mississippi River Gulf Outlet.
4. Report from the VTS Subcommittee.
5. New Business.
6. Adjournment.

The purpose of this Advisory Committee is to provide consultation and advice to the Commander, Eighth Coast Guard District on all areas of maritime safety affecting this waterway.

The meeting is open to the public. Members of the public may present written or oral statements at the meeting.

Additional information may be obtained from Commander C.T. Bohner, USCG, Executive Secretary, Lower Mississippi River Waterway Safety Advisory Committee, c/o Commander Eighth Coast Guard District (oan), Room 1209, Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA 70130-3396, telephone number (504) 589-3074.

Dated: August 27, 1990.

J.M. Loy,

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

[FR Doc. 90-21276 Filed 9-10-90; 8:45 am]

BILLING CODE 4910-14-M

[CGD8 90-21]

Lower Mississippi River Waterway Safety Advisory Committee; VTS Subcommittee Meetings

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the VTS Subcommittee of the Lower Mississippi River Waterway Safety Advisory Committee. The meeting will be held on Tuesday, October 9, 1990. The meeting will be held at the Crescent River Port Pilots' Office, 409 Belle Chasse Highway South, Belle Chasse, Louisiana. The meeting is scheduled to begin at 9 a.m. The agenda for the meeting consists of the following items:

1. Call to order.
2. Discussion of previous recommendations for a proposed New Orleans Vessel Traffic Service.
3. Presentation of any additional new items for consideration by the Subcommittee.
4. Adjournment.

The meetings are open to the public. Members of the public may present written or oral statements at the meetings.

Additional information may be obtained from Commander C.T. Bohner, USCG, Executive Secretary, Lower Mississippi River Waterway Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (oan), Room 1209, Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA 70130-3396, telephone number (504) 589-3074.

Dated: August 28, 1990.

J.M. Loy,

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

[FR Doc. 90-21275 Filed 9-10-90; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA)

Special Committee 163—Unintentional or Simultaneous Transmissions That Adversely Affect Two-Way Radio Communication; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463, 5 U.S.C., appendix I), notice is hereby given for the Eleventh meeting of RTCA Special Committee 163 on the Unintentional or Simultaneous Transmissions that Adversely Affect Two-Way Radio Communication to be held October 10-12, 1990, in the RTCA conference room, One McPherson Square, 1425 K Street, NW., suite 500, Washington, DC 20005, commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Chairman's remarks; (2) Approval of the Tenth Meeting's Minutes, RTCA Paper No. 20-90/SC163-104; (3) Brief overview of the problem; (4) Further review the Second Proposed Final Draft of the Mops for Unintentional or Simultaneous Transmissions that Adversely Affect Two-way Radio Communication, RTCA Paper No. 17-90/SC163-103, and any comments thereto; (5) Assignment of Tasks (if appropriate); (6) Other Business; (7) Date and place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., suite 500, Washington, DC 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 31, 1990.

Geoffrey R. McIntyre,

Designated Officer.

[FR Doc. 90-21214 Filed 9-10-90; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA) Executive Committee Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463: 5 U.S.C. App. I), notice is hereby given for the Executive Committee meeting to be held September 27, 1990, at the RTCA, One McPherson Square, 1425 K Street NW., suite 500, Washington, DC 20005 Commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Chairman's remarks and introductions; (2) Approval of the July 19, 1990, Executive Committee Meeting Minutes, RTCA Paper No. 263-90/EC-1051; (3) Executive Director's Report; (4) Special Committee Acvtivities Report for July-August 1990, RTCA Paper No. 265-90/RE-750; (5) Review/approve 1991 Operating and 1992 Planning budgets; (6) Consideration for Approval of Special Committee Reports. (a) Change 1 to DO-160C, Environmental Conditions and Test Procedures for Airborne Equipment; (7) Consideration of Proposals to Establish New Special Committees, (a) ARINC request to establish a Special Committee that will address considerations attendant with a new VHF transceiver optimize for data communications, (b) FAA request to establish a Special Committee for the review and update of Do-198, Minimum Operational Performance Standards for Airborne MLS Area Navigation Equipment; (8) Other Business; (9) Date and place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Stret, NW., suite 500, Washington, DC 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 29, 1990

Geoffrey R. McIntyre,

Desgination Officer.

[FR Doc. 90-21216 Filed 9-10-90; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA), Special Committee 164—Minimum Operational Performance Standards for Aircraft Audio Systems and Equipment; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463, 5 U.S.C. appendix I), notice is hereby given for the Seventh meeting of RTCA Special Committee 164 on Minimum Operatinal Performance Standards for Aircraft Audio Systems and Equipment to be held October 15-17, 1990, in the RTCA Conference room, One McPherson Square, 1425 K Street NW., suite 500, Washington, DC 20005 Commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Chairman's remarks; (2) Approval of the Sixth Meeting's Minutes, RTCA Paper No. 238-90/SC164-34; (3) Technical Presentations; (4) Review of Task Assignments from last meeting; (5) Review of the second Draft of the MOPS, RTCA Paper No. 82-900/SC164-28; (6) Working Group Sessions; (7) Task Assignments; (8) Other Business; (9) Date and place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain

information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., suite 500, Washington, DC 20005; (202) 682–0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 29, 1990

Geoffrey R. McIntyre,

Designated Officer.

[FR Doc. 90–21217 Filed 9–10–90; 8:45 am]

BILLING CODE 4910–13–M

Certificate Management Office at Dallas/Fort Worth Airport, Texas Flight Standards District Office, Alliance Airport, Fort Worth, TX; Notice of Opening

Notice is hereby given that on or about September 4, 1990, a Certificate Management Office will be opened in the Trades Building, 1205 Royal Lane, Dallas/Fort Worth Airport, Texas 75261. This office will conduct certificate management activities for several commuter air carriers which operate throughout the United States.

On or about that same date, a new Flight Standards District Office will open at the Alliance Airport, 2260 Alliance Boulevard, Fort Worth, Texas, 76177. This office will provide services to the general aviation industry in the Fort Worth district. This district is comprised of 30 counties in the Fort Worth area, 23 of which were formerly serviced by the Dallas Flight Standards District Office and 7 of which were formerly serviced by the Lubbock Flight Standards District Office.

This information will be reflected in the FAA Organization Statement the next time it is reissued.

Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354.

Issued in Fort Worth, TX, on August 10, 1990.

Don P. Watson,

Administrator, Southwest Region.

[FR Doc. 90–21218 Filed 9–10–90; 8:45 am]

BILLING CODE 4910–13–M

Flight Standards District Office, Oklahoma City, OK; Notice of Address Change

Notice is hereby given that in April 1990, the Flight Standards District Office at Oklahoma City, Oklahoma, relocated to new office space. The new address for that office is: Federal Aviation Administration, Flight Standards District Office, 1300 South Meridian, suite 601, Oklahoma City, OK 73108, (405) 231–4196.

This information will be reflected in the FAA Organization Statement the next time it is reissued.

Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354.

Issued in Fort Worth, TX, on August 10, 1990.

Don P. Watson,

Administrator, Southwest Region.

[FR Doc. 90–21215 Filed 9–10–90; 8:45 am]

BILLING CODE 4910–13–M

Federal Railroad Administration

[FRA Emergency Order No. 13, Notice No. 2]

New York and Lake Erie Railroad, Industrial Development Agency of Cattaraugus County; Passenger Service Allowed Between Milepost 32.9 and Milepost 43.0

Based on Federal Railroad Administration (FRA) inspections of the New York and Lake Erie Main Line, owned by the Industrial Development Agency of Cattaraugus County and operated by the New York and Lake Erie Railroad (NYLE), I have concluded that an emergency condition no longer exists on the segment between mileposts 32.9 and 43.0. I am accordingly lifting FRA Emergency Order No. 13 (Order), which was issued on June 7, 1990, as it applies to the trackage between mileposts 32.9 and 43.0 only. The Emergency Order remains in effect on all other track covered by the June 7th Order.

The NYLE notified FRA by telephone that its track was ready for inspection twice in August of 1990. FRA, in fact, conducted two inspections in response to these oral requests, rather than requiring written notification as specified in paragraph 2 of the Relief section of the Order.

The condition of this segment of track is very close to the lower threshold necessary to meet FRA's standards for Class 1 track. The issuance of this Notice should not be taken to preclude reimposition of the Order should track conditions between milepost 32.9 and milepost 43.0 subsequently deteriorate to the point where FRA finds that an emergency once again exists on that segment of track.

Issued in Washington, DC, on August 31, 1990.

Perry A. Rivkind,

Deputy Administrator (Acting Administrator).

[FR Doc. 90–21282 Filed 9–10–90; 8:45 am]

BILLING CODE 4910–06–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

September 5, 1990.

The Department of the Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB number: 1545–0085.

Form number: IRS Form 1040A and Schedules 1, 2 and 3:.

Type of review: Resubmission.

Title: U.S. Individual Income Tax Return.

Description: This form is used by individuals to report their income subject to income taxes and to compute their correct tax liability. The data is used to verify that the income reported on the form are correct and are also for statistics use.

Respondents: Individuals or households.

Estimated number of respondents recordkeepers: 18,634,000.

Estimated burden hours per repondent/recordkeeper:

	1040A	Sched. 1	Sched. 2	Sched. 3
Recordkeeping	1 hr., 22 min	20 min	33 min	36 min.
Learning about the law or the form	2 hrs., 31 min	4 min	10 min.	14 min.

	1040A	Sched. 1	Sched. 2	Sched. 3
Preparing the form	3 hrs., 16 min	10 min	37 min	26 min.
Copying, assembling, and sending the form to IRS	35 min	20 min	28 min	35 min.

Frequency of response: Annually.

Estimated total reporting/recordkeeping burden: 162,624,894 hours.

Clearance Officer: Garrick Shear, (202) 535–4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 90–21240 Filed 9–10–90; 8:45 am]

BILLING CODED 4830–01–M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 176
Tuesday, September 11, 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).

FEDERAL ENERGY REGULATORY COMMISSION

September 5, 1990.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-49), 5 U.S.C. 552B:

DATE AND TIME: September 12, 1990, 10 a.m.

PLACE: 825 North Capitol Street NE, Room 9306, Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Secretary, Telephone (202) 208-0400.

This a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Reference and Information Center.

Consent Agenda—Hydro, 922nd Meeting—September 12, 1990, Regular Meeting (10:00 a.m.)

CAH-1.
Omitted
CAH-2.
Project No. 6902-015, City of New Martinsville, West Virginia
Project No. 9042-011, Gallia Hydro Partners
CAH-3.
Project No. 4632-007, Clifton Power Corporation
CAH-4.
Docket No. EL83-33-001, Diamond D. Ranch Partnership
CAH-5.
Project Nos. 8435-007, 8466-008 and 8812-006, Independence Electric Corporation
CAH-6.
Project No. 8093-013 Methuen Falls Hydroelectric Company
CAH-7.
Project No. 10645-001, City of Richmond, Virginia
CAH-8.
Project No. 2758-004, Burlington Electric Company and Winooski One Partnership
CAH-9.
Project No. 9922-003, City of Boulder, Colorado
CAH-10.
Project No. 8142-022, Henwood Associates, Inc.
CAH-11.
Project No. 9246-007, John C. Simmons
CAH-12.
Project No. 3865-033, Guadalupe-Blanco River Authority
CAH-13.
Project No. 9836-008, Catalyst Energy Development Corporation
CAH-14.
Project No. 6867-007, Daniel J. Horrall

Consent Agenda—Electric

CAE-1.
Docket Nos. ER90-333-000, ER89-256-000 and EC90-10-000, Palisades Generating Company
CAE-2.
Docket Nos. ER90-522-000 and ER90-388-000, Metropolitan Edison Company
CAE-3.
Docket No. ER90-401-000, Georgia Power Company
CAE-4.
Docket No. QF90-124-001, City of LeClaire, Iowa
CAE-5.
Docket No. ER90-384-001, Public Service Company of New Mexico
CAE-6.
Docket No. ER89-571-001, Southwestern Electric Power Company
CAE-7.
Docket Nos. ER85-416-011, ER85-521-005, ER86-258-003, ER86-478-002, ER86-567-002, ER87-404-002 and ER88-120-002, Kansas Gas and Electric Company
CAE-8.
Docket No. ER90-223-002, Texas Utilities Electric Company
CAE-9.
Docket No. ER90-38-001, Entergy Services, Inc.
CAE-10.
Docket No. ER81-177-007, and 001 (Phase II), Southern California Edison Company
CAE-11.
Docket Nos. E-7777-000, and 012 (Phase II), Pacific Gas and Electric Company
CAE-12.
Omitted
CAE-13.
Docket Nos. EC90-10-000, ER90-143-000, ER90-144-000, ER90-145-000 and EL90-9-000, Northeast Utilities Service Company (Re: Public Service Company of New Hampshire)
CAE-14.
Docket No. EC90-8-000, Central Vermont Public Service Corporation and Allied Power and Light Company
CAE-15.
Docket No. ER89-265-005, Arizona Public Service Company
Docket No. EL89-26-003, Southern California Edison Company v. Arizona Public Service Company
CAE-16.
Docket Nos. EL87-61-000, and 001, PSI Energy, Inc. (formerly Public Service Company of Indiana, Inc.)
CAE-17.
Docket No. EL90-26-000, North Carolina Electric Membership Corporation v. Virginia Electric and Power Company
CAE-18.
Docket No. EL-90-24-000, Seminole Electric Cooperative, Inc. v. Florida Power & Light Company
CAE-19.
Docket No. EL-89-6, 000, Cities of Anaheim, Azusa, Banning, Colton and Riverside, California v. Southern California Edison Company
CAE-20.
Docket No. FA86-55-000, Union Electric Company

Consent Agenda—Gas and Oil

CAG-1.
Docket No. RP90-155-000, Panhandle Eastern Pipe Line Company
CAG-2.
Docket No. RP90-164-000, Mid Louisiana Gas Company
CAG-3.
Docket No. RP90-161-000 and 001, Northern Natural Gas Company
CAG-4.
Docket No. RP90-108-003, Columbia Gas Transmission Corporation
Docket No. RP90-107-004, Columbia Gulf Transmission Company
CAG-5.
Docket Nos. RP89-70-003, 008, 009, RP88-69-003 and 004, Stingray Pipeline Company
CAG-6.
Docket No. RP90-142-000, Florida Gas Transmission Company
CAG-7.
Docket Nos. TA90-1-63-000, 001 and 002, Carnegie Natural Gas Company
CAG-8.
Docket No. TM90-9-26-000, Natural Gas Pipeline Company of America
CAG-9.
Docket Nos. TA90-1-33-001, 002 and 003, El Paso Natural Gas Company
CAG-10.
Docket Nos. TA90-1-15-000 and 001, Mid Louisiana Gas Company
CAG-11.
Docket Nos. RP90-122-002, RP88-191-022 and RP85-178-069, Tennessee Gas Pipeline Company
CAG-12.
Docket No. RP90-134-000, Northern Natural Gas Company
CAG-13.
Docket Nos. RP90-30-000 and 002, Texas Eastern Transmission Corporation
CAG-14.
Docket Nos. TA90-1-9-002, Tennessee Gas Pipeline Company
CAG-15.

Docket No. TA90-1-48-000, ANR Pipeline Company
CAG-16.
Docket Nos. RP90-118-000 and 001, Northwest Pipeline Company
CAG-17.
Docket Nos. GT90-33-001 and 000, Overthrust Pipeline Company
CAG-18.
Docket Nos. GT90-18-000, 001 and MT89-4-005, Columbia Gulf Transmission Company
CAG-19.
Docket No. TM90-11-17-001, Texas Eastern Transmission Corporation
CAG-20.
Docket No. RP90-83-004, CNG Transmission Corporation
CAG-21.
Docket No. RP89-225-009, South Georgia Natural Gas Company
CAG-22.
Docket No. RP90-108-004, Columbia Gas Transmission Corporation
Docket No. RP90-107-005, Columbia Gulf Transmission Company
CAG-23.
Docket Nos. RP90-102-001, 003, 004 and 005, Tarpon Transmission Company
CAG-24.
Docket No. RP90-148-002, Williston Basin Interstate Pipeline Company
CAG-25.
Docket No. RP90-131-001, Northern Natural Gas Company
CAG-26.
Docket Nos. IS86-3-001, IS87-1-002 and IS87-13-001, ARCO Pipe Line Company
CAG-27.
Docket No. TA90-1-33-004, El Paso Natural Gas Company
CAG-28.
Docket No. RP87-7-066, Transcontinental Gas Pipe Line Corporation
CAG-29.
Docket No. RP90-111-001, East Tennessee Natural Gas Company
CAG-30.
Docket No. RP87-40-004, Western Transmission Corporation
CAG-31.
Docket Nos. RP90-2-006 and RP90-133-003, Williston Basin Interstate Pipeline Company
CAG-32.
Docket Nos. RP89-225-007 and TA90-1-8-001, South Georgia Natural Gas Company
CAG-33.
Docket Nos. RP89-36-004, CP90-273-001, CP88-338-001, CP88-266-008, CP87-107-003 and CP87-106-007, Viking Gas Transmission Company
CAG-34.
Docket Nos. RP88-27-023, RP88-264-019 and RP88-138-004, United Gas Pipe Line Company
CAG-35.
Docket No. RP84-82-010, Tarpon Transmission Company
CAG-36.
Docket No. RP89-135-017, Arkla Energy Resources, a Division of Arkla, Inc.
CAG-37.
Omitted
CAG-38.
Docket Nos. RP90-1-000 and 001, Nycotex Gas Transport
CAG-39.
Docket No. RP85-209-029, United Gas Pipe Line Company
CAG-40.
Docket Nos. ST89-1708-001, ST89-1775-001 and ST88-2555-004, Louisiana Intrastate Gas Corporation
CAG-41.
Docket Nos. RP88-227-019, CP90-767-000, CP78-221-03, Pauite Pipeline Company
Docket No. CP90-849-000, Northwest Pipeline Corporation
CAG-42.
Docket Nos. RP89-186-004, RP90-20-002, RP86-35-013, 014, CP66-110-040, CP81-225-009, CP87-164-007, CP87-467-007, CP87-474-008, CP88-145-001, CP88-307-007, CP88-310-005, CP88-397-005, CP88-539-005, CP88-599-004, CP88-719-001, CP88-826-002, CP89-1251-002, CP89-1331-000, CP89-1681-000, CP89-1947-000, CP89-2196-000, CP89-2197-000, CP89-335-000, CP90-168-000, CP90-355-000 and CP89-2198-000, Great Lakes Gas Transmission
CAG-43.
Docket Nos. RP88-259-000, RP89-136-006 and CP89-1227-000, Northern Natural Gas Company
CAG-44.
Docket Nos. RP89-183-000, 002 and TC89-8-000, Williams Natural Gas Company
CAG-45.
Docket Nos. OR87-1-000, OR87-2-000, OR87-3-000, OR87-4-000, OR87-5-000 and OR87-8-000 Oxy Pipeline, Inc.
Docket No. OR87-6-000, Cxy Offshore Systems, Inc.
Docket No. OR85-2-000, Samedan Pipe Line Corporation
CAG-46.
Docket No. SA80-88-001, Rochester Gas and Electric Corporation
CAG-47.
Docket No. CP89-880-002, Northwest Pipeline Corporation
CAG-48.
Docket No. CP90-308-002, Southern Natural Gas Company
CAG-49.
Omitted
CAG-50.
Docket No. CP89-2210-002, ANR Pipeline Company
CAG-51.
Docket No. CP87-75-002, Tennessee Gas Pipeline Company
CAG-52.
Docket No. CP89-93-005, Williams Natural Gas Company
CAG-53.
Docket No. CP90-2033-000, Colorado Interstate Gas Company
CAG-54.
Docket No. CP90-1958-000, Columbia Gulf Transmission Company
CAG-55.
Docket No. CP89-576-000 and 001, Northern Border Pipeline Company
CAG-56.
Docket No. CP88-574-003, CNG Transmission Corporation
CAG-57.
Docket No. CP89-1540-000, El Paso Natural Gas Company
CAG-58.
Docket No. CP89-1684-000, Steuben Gas Storage Company
Docket No. CP90-177-000, CNG Transmission Corporation
Docket No. CP89-685-000, Transcontinental Gas Pipe Line Corporation
CAG-59.
Docket No. CP90-1512-000, Mountain Fuel Supply Corporation
CAG-60.
Docket No. CP90-1385-000, Northern Natural Gas Company
CAG-61.
Docket No. CP90-691-000, CP87-410-000, 001, 002, 003 and 004, Great Lakes Gas Transmission Company
CAG-62.
Omitted
CAG-63.
Docket No. CP90-681-000, Panhandle Eastern Pipe Line Company
CAG-64.
Docket No. CP89-2049-000, Texas Gas Transmission Corporation
CAG-65.
Docket No. CP90-1167-000 and CP89-1717-000, Colorado Interstate Gas Company
CAG-66.
Docket No. CP90-187-000, Oklahoma-Arkansas Pipeline Company
CAG-67.
Docket No. CP90-2006-000, Mississippi River Transmission Corporation
CAG-68.
Docket No. CP90-2041-000, Superior Offshore Pipeline Company
CAG-69.
Docket No. CP90-2042-000, Northern Natural Gas Company, Division of Enron Corp.
CAG-70.
Docket No. CP90-2043-000, Northern Natural Gas Company, Division of Enron Corp.
CAG-71.
Docket No. CP90-2052-000, National Fuel Gas Supply Corporation
CAG-72.
Docket No. CP90-2061-000, Northern Natural Gas Company, Division of Enron Corp.
CAG-73.
Docket No. CP90-2079-000, Algonquin Gas Transmission Company
CAG-74
Docket No. CP90-2096-000, Northern Natural Gas Company, a Division of Enron Corp.

Hydro Agenda

H-1.
Omitted

Electric Agenda

E-1.
Docket No. ER89-672-002, PSI Energy, Inc. Order on requests for rehearing.

Oil and Gas Agenda

I. Pipeline Rate Matters

PR-1.
(A) Docket Nos. TA88-4-42-000 and TQ89-1-42-000, Transwestern Pipeline

Company. Order concerning initial decision on pricing adjustment costs.

(B) Docket No. TQ90-3-43-001, Williams Natural Gas Company. Order concerning rehearing of compliance filing on pricing adjustment costs.

PR-2.

Omitted

PR-3.

Docket Nos. TA85-3-29-029, 030, 031, 032, TA86-1-29-010, TA85-1-29-017, TA86-5-29-011, RP83-137-028, CP85-190-007 (Phase I), TA85-3-29-009, 016, 020, 025, TA86-1-29-006, TA85-1-29-006, TA86-5-29-007, RP83-137-025 and CP85-190-003, (Phase II). Order concerning initial decision on whether certain sales by Transco violated NGA sections 4(d), 7(c) and 4(b).

PR-4.

Docket No. RM90-15-000, Revisions to the Regulations Governing Purchased Gas Adjustments. Notice of Public Conference.

II. Producer Matters

PF-1.

Reserved

III. Pipeline Certificate Matters

PC-1.

Docket Nos. CP88-171-000, 001 and 002, Tennessee Gas Pipeline Company

Docket No. CP89-712-000, CNG Transmission Corporation

Docket Nos. CP88-194-000, 005 and CP88-94-003, National Fuel Gas Supply Corporation

Docket Nos. CP89-7-000, 001, 002 and CP88-92-002, Transcontinental Gas Pipe Line Corporation

Docket Nos. CP88-195-000, 001, 002, 005 and 006, PennEast Gas Services Company, CNG Transmission Corporation and Texas Eastern Transmission Corporation

Docket No. CP89-711-000, Texas Eastern Transmission Corporation

Docket Nos. CP88-187-000, 001 and 002, Algonquin Gas Transmission Corporation

Docket Nos. CP89-2205-000 and 001, Transcontinental Gas Pipe Line Corporation

Docket No. CP89-710-000, Transcontinental Gas Pipe Line Corporation

Docket No. CP89-892-000, Great Lakes Transmission Company

Docket Nos. CP87-131-003 and CP87-132-004, Tennessee Gas Pipeline Company. Order issuing certificate for Phase III of the Niagara Import Points Project, issuing Presidential permit, clarifying prior order and authorizing abandonment.

PC-2.

Docket No. CP89-692-001, Amerada Hess Corporation

Docket No. CP90-804-000, Alabama-Tennessee Natural Gas Company and Sun Operating Limited Partnership

Docket No. CP90-215-000, Amoco Production Company

Docket No. CP90-504-000, ARCO Oil and Gas Company, Inc.

Docket No. CP89-1753-000, Arkla Energy Resources

Docket No. CP88-202-001, Columbia Gas Transmission Company

Docket No. CP88-244-000, El Paso Natural Gas Company

Docket No. CI89-421-000, Enron Oil & Gas Company

Docket No. CP89-2158-000, Forest Oil Corporation

Docket Nos. CP90-1083-000 and CP90-1084-000, Leapartners, L.P. and El Paso Natural Gas Company

Docket No. CP89-1514-000, Mitco Pipeline Company

Docket Nos. CP88-428-000 and 001, NRM Operating Company, L.P., *et al.*

Docket No. CP89-800-000, Panhandle Eastern Pipe Line Company

Docket No. CP90-466-000, Pennzoil Company and United Gas Pipe Line Company

Docket No. CP89-1001-000, Ringwood Gathering Company

Docket No. CI89-191-001, Shell Gas Pipeline Company

Docket Nos. CI89-420-000 and CP89-921-000, Shell Offshore, Inc. and Trunkline Gas Company

Docket Nos. CP89-468-000 and CP89-483-000, Shell Western E&P, Inc. and El Paso Natural Gas Company

Docket No. CP89-1883-000, Tennessee Gas Pipeline Company

Docket No. CP88-212-000, West Texas Gathering Company

Docket Nos. CP89-1718-000 and CP89-1722-000, Western Gas Processors and El Paso Natural Gas Company. Declaratory order, order on rehearing requests, and order granting and dismissing requests for abandonment authorization on applications regarding status of facilities under the Natural Gas Act.

PC-3.

Docket No. CP89-2107-000, Arkla Energy Resources, Inc.

Docket No. CP89-5-002, CNG Transmission Corporation

Docket No. CP88-332-014, El Paso Natural Gas Company

Docket No. CP88-546-004, Equitrans, Inc.

Docket No. CP89-1179-001, Kentucky-West Virginia Gas Company

Docket No. CP88-312-006, Natural Gas Pipeline Company of America

Docket No. CP88-2-010, Northern Natural Gas Company

Docket No. CP89-834-003, Panhandle Eastern Pipe Line Company

Docket No. CP88-473-004, Southern Natural Gas Company

Docket No. CP89-759-001, Transcontinental Gas Pipe Line Corporation

Docket No. CP88-99-012, Transwestern Pipeline Company

Docket No. CP90-235-001, Williams Natural Gas Company. Report on Interruptible Sales Service technical conference and order regarding changes in existing ISS certificates.

PC-4.

Docket Nos. CP88-136-022 and 023, Texas Eastern Transmission Corporation. Order on requests for rehearing and clarification of transportation assignment program.

PC-5.

Docket No. CP88-328-004, Transcontinental Gas Pipe Line Corporation. Order amending blanket certificate to authorize an interim transportation assignment program.

PC-6.

Docket No. RM90-14-000, Interim Revisions to Regulations Governing Construction of Facilities Pursuant to NGPA Section 311 and Replacement of Facilities. Order on motion by Tennessee Gas Pipeline Company for Clarification of Interim Rule.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90-21316 Filed 9-6-90; 4:59 pm]

BILLING CODE 6717-01-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

September 6, 1990.

TIME AND DATE: 10 a.m., Thursday, September 13, 1990.

PLACE: Room 600, 1730 K Street NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Ideal Cement Company,* Docket No. WEST 88-202-M. (Issues include whether the judge erred in vacating a citation alleging a violation of 30 CFR 56.9002.)

2. *Sanger Rock and Sand,* Docket No. WEST 88-275-M. (Issues include consideration of the Secretary of Labor's motion for summary reversal.)

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653-5629/(202) 708-9300 for TDD Relay, 1-800-877-8339 Toll Free.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 90-21493 Filed 9-7-90; 3:53 pm]

BILLING CODE 6735-01-M

FEDERAL RESERVE SYSTEM (BOARD OF GOVERNORS)

TIME AND DATE: 11 a.m., Monday, September 17, 1990.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: September 7, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90–21496 Filed 9–7–90; 3:53 pm]

BILLING CODE 6210–01–M

INTERNATIONAL TRADE COMMISSION

[USITC SE–90–21]

TIME AND DATE: Tuesday, September 18, 1990 at 10:30 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and Complaints: Certain Anti-Lock Ignition Systems and Automobiles or Automobile Component Parts Containing Same (D/N 1578).
5. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 252–1000.

Dated: September 6, 1990.

Kenneth R. Mason,

Secretary.

[FR Doc. 90–21395 Filed 9–7–90; 1:48 pm]

BILLING CODE 7020–02–M

NEIGHBORHOOD REINVESTMENT CORPORATION

Regular Meeting of the Board of Directors

[No. 0–7]

TIME AND DATE: 2 p.m.—Monday, September 17, 1990.

PLACE: Neighborhood Reinvestment Corporation, 1325 G Street, Northwest—Eighth Floor, Board Room, Washington, DC 20005.

STATUS: Open/Closed.

AGENDA:

I. Call to Order
II. Appointments to fill Committee Vacancies
  a. Personnel Committee Resolution
  b. Budget Committee Resolution
III. Approval of Minutes
  a. 12th Annual Meeting, May 22, 1990
  b. 12th Annual Meeting, May 22, 1990 (closed)
  c. Special Meeting, June 26, 1990
  d. Special Meeting, July 26, 1990
IV. Budget Committee Report
  a. Proposed FY '90 Reallocation
  b. Proposed FY '91 Budget Request
  c. Proposed FY '92 OMB Submission
V. Personnel Matter (closed)
VI. Budget and Financial Reports
VII. Banking Relationships
VIII. Overview of Future Board and Committee Meetings
IX. Acting Executive Director's Activity Report
X. Adjourn

Special Note: Agenda Item V will be closed to the Public.

CONTACT PERSON FOR MORE INFORMATION: Martha A. Diaz-Ortiz, Acting Secretary, 376–2400.

Martha A. Diaz-Ortiz,

Acting Secretary.

[FR Doc. 90–21409 Filed 9–7–90; 1:49 pm]

BILLING CODE 7570–01–M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of September 3, 10, 17, 24, and October 1, 1990.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED;

Week of September 10

There are no meetings scheduled for the week of September 10.

Week of September 17 (Tentative)

Friday, September 21

11:30 a.m.—Affirmation/Discussion and Vote (Public Meeting)

Week of September 24 (Tentative)

Wednesday, September 26

2:00 p.m.—Periodic Briefing on the Status of Browns Ferry 2 (Public Meeting)
3:30 p.m.—Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of October 1 (Tentative)

Monday, October 1

2:00 p.m.—Briefing on Conformity of Guidance on Low Level Waste Disposal Facilities with Requirements of 10 CFR part 61 (Public Meeting)

Tuesday, October 2

3:30 p.m.—Affirmation/Discussion and Vote (Public Meeting) (if needed)

Note.—Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To verify the status of meetings call (Recording)—(301) 492–0292.

CONTACT PERSON FOR MORE INFORMATION; William Hill (301) 492–1661.

Dated: September 6, 1990.

William M. Hill, Jr.,

Office of the Secretary.

[FR Doc. 90–21412 Filed 9–7–90; 1:50 pm]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of September 10, 1990.

A closed meeting will be held on Thursday, September 13, 1990, at 10 a.m.

The Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Lochner, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Thursday, September 13, 1990, at 10 a.m., will be:

Institution of injunctive actions.
Institution of administrative proceedings of an enforcement nature.
Settlement of injunctive actions.
Settlement of administrative proceedings of an enforcement nature.
Report of investigation.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Ronald Mueller at (202) 272–2200.

Dated: September 6, 1990.

Jonathan G. Katz,

Secretary.

[FR Doc. 90–21497 Filed 9–7–90; 3:53 pm]

BILLING CODE 8010–01–M

Corrections

Federal Register
Vol. 55, No. 176
Tuesday, September 11, 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 ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP88-259-033 and RP89-136-017]

Northern Natural Gas Division of Enron Corp.; Supplemental Report of Distribution of Refunds Paid and Surcharges Billed

Correction

In notice document 90-20893 appearing on page 36698 in the issue of Thursday, September 6, 1990, in the third column, the docket numbers should have appeared as set forth above.

BILLING CODE 1505-01-D

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

Correction

In rule document 90-19029 beginning on page 33246 in the issue of Tuesday, August 14, 1990, make the following corrections:

1. On page 33246, in the first column, the "**EFFECTIVE DATE**" is corrected to read "August 14, 1991".

2. On page 33248, in the third column, under "**References**", in the second line of item (3), "32408" should read "32493".

3. On page 33252, in the first column, in the last line "§ 358.150(c)(i)(iii)" should read "§ 358.150(c)(1)(iii)".

4. On the same page, in the second column, under "**References**", in the second line of item (2), "Molluscum" was misspelled.

5. On the same page, in the same column, also under "**References**", in the first line of item (4), "Salicylic" was misspelled.

§ 358.150 [Corrected]

6. On page 33255, in the third column, in § 358.150(c)(1)(ii), in the third line, "your" should read "you".

§ 358.150 [Corrected]

7. On page 33256, in the second column, in § 358.150(d)(3), in the first line, "salicylic" was misspelled.

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 90M-0233]

Steridyne Laboratories, Inc.; Premarket Approval of Steridyne Sterile Preserved Saline Solution

Correction

In notice document 90-18981 beginning on page 33173 in the issue of Tuesday, August 14, 1990, make the following corrections:

1. On page 33173, in the second column, near the bottom of the page, the subject heading should read as set forth above.

2. On page 33174, in the first column, under "**Opportunity for Administrative Review**", in the fourth line "increased" should read "interested".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY-030-00-4212-13; WYW-113713]

Realty Action; Exchange; Wyoming

Correction

In notice document 90-20322 beginning on page 35368, in the issue of Wednesday, August 29, 1990, make the following corrections:

1. On page 35368, in the second column, the docket numbers should read as set forth above.

2. On the same page, in the third column, in the first line, "Natrona" was misspelled.

3. On the same page, in the same column, in the land description, under "T. 42 N., R. 105 W.," in the second line, "NE¼;" should read "NW¼;".

4. On page 35369, in the second column, in the file line at the end of the document, "FR Doc. 90-20822" should read "FR Doc. 90-20322".

BILLING CODE 1505-01-D

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31724]

Columbus and Greenville, Railway Co.; Trackage Rights Exemption; Southrail Corp.

Correction

In notice document 90-20719 appearing on page 35963, in the issue of Tuesday, September 4, 1990, make the following correction:

On page 35963, in the second column, in the file line at the end of the document, "FR Doc. 90-20720" should read "FR Doc. 90-20719".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 175 and 181

[CGD 81-023]

RIN 2115-AA58

Equipment Requirements for Recreational Boats; Personal Flotation Devices

Correction

In rule document 90-17731 beginning on page 32032 in the issue of Monday, August 6, 1990, make the following corrections:

§ 175.17 [Corrected]

1. On page 32034, in the second column, in § 175.17, in the first line of the introductory text, "Type PFD" should read "Type V PFD".

PART 181—MANUFACTURER REQUIREMENTS

2. On the same page, at the bottom of the same column, the heading for part 181 should read as set forth above.

BILLING CODE 1505 01-D

federal register

Tuesday
September 11, 1990

Part II

Department of Transportation

Coast Guard

46 CFR Part 30 et al.

Portable Tanks for the Transportation of Bulk Hazardous Materials by Vessel; Final Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 30, 64, 70, 90, 98, 109, 151, and 153

[CGD 84-043]

RIN 2115-AB69

Portable Tanks for the Transportation of Bulk Hazardous Materials by Vessel

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending its regulations on the carriage of certain dangerous cargoes in bulk to discontinue its approval of marine portable tanks ("MPTs") and to authorize the transfer of liquid hazardous materials to and from DOT-specification portable tanks on vessels. (Existing approved MPTs may remain in service.) Also, in response to a petition for rulemaking, it is amending its regulations to let DOT-specification 57 portable tanks be used for the bulk carriage of high-flashpoint Grade E combustible liquids and other low-hazard liquids. Since DOT now covers tanks for all modes of transportation, the Coast Guard's covering them for the maritime mode is superfluous. Among the expected benefits of this rule are removal of the Coast Guard from competition with private industry, which inspects and approves DOT-specification portable tanks, and greater availability of portable tanks, especially overseas.

EFFECTIVE DATE: This Final Rule is effective on October 1, 1990.

ADDRESSES: The Final Evaluation is available for examination at the Office of the Executive Secretary, Marine Safety Council (G-LRA-2), Room 3406, U.S. Coast Guard, 2100 Second Street SW., Washington, DC, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Frank K. Thompson, (202) 267-1577.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this Final Rule are Mr. Frank K. Thompson, Project Manager, Office of Marine Safety, Security, and Environmental Protection, and Mr. Patrick J. Murray, Project Attorney, Office of the Chief Counsel.

Background

The regulations on MPTs in part 64 of title 46, Code of Federal Regulations (46 CFR part 64), were developed in 1973-74 by the Coast Guard in consultation with interested manufacturers and representatives of the offshore oil industry. These regulations were developed to be consistent with the portable tank standards of the International Maritime Organization (IMO) as incorporated into the International Maritime Dangerous Goods (IMDG) Code. Since the development of these regulations, the portable tank standards of IMO have been improved and expanded. The Department of Transportation (DOT) has authorized portable tanks of two specifications, IM 101 and IM 102, analogous to Type 1 and Type 2 portable tanks of IMO. The DOT specifications for these tanks (49 CFR 178.270 through 178.272) appeared on January 29, 1981 (46 FR 9895).

The DOT specification for portable tanks requires no act of approval by the Coast Guard. Instead, the owner or manufacturer of a DOT-specification IM 101 or IM 102 ("IM-specification") portable tank applies to an independent approval agency (the American Bureau of Shipping, for example) designated by the Director, Office of Hazardous Materials Transportation (OHMT), for such approval. The designated approval agency reviews the owner's or manufacturer's design drawings and calculations, and witnesses the required tests. If the tank passes the tests, the agency affixes its identifying mark to each approved tank, issues an approval certificate to the applicant, and forwards a copy of the certificate to OHMT.

The current regulations allow hazardous materials to be transferred to and from portable tanks on vessels only if those tanks meet the requirements for MPTs in 46 CFR part 64. Further, the cargoes that these regulations authorize to be transferred to and from MPTs are limited to Grade D and Grade E combustible liquids and those 10 cargoes listed in 46 CFR 64.9 and 46 CFR 98.30-3(b).

The involvement of the Coast Guard in the approval of MPTs has cost all parties much in both manpower and money. Design drawings for MPTs must be submitted to the Coast Guard Marine Safety Center for design approval. MPTs constructed to approved plans must be inspected and hydrostatically tested in the presence of a Coast Guard inspector. The Coast Guard is performing a service that, as it is now administered, private industry could readily perform.

Additionally, the lack of availability of MPTs is a problem for U.S.-flag mobile offshore drilling units (MODUs) operating overseas. Even though outside the territorial boundaries of the United States, such MODUs, including their equipment, are subject to domestic regulations and Coast Guard inspection. Many such MODUs rarely return to U.S. waters; nevertheless, their MPTs must be fabricated and approved in the United States.

The Coast Guard performed an analysis to determine the suitability of IM-specification portable tanks for use in service presently restricted to MPTs. From this analysis, a copy of which is in the public docket, the Coast Guard concludes that IM-specification portable tanks are equivalent to MPTs and are suitable for this service. There is nothing inherent in the design of IM-specification portable tanks that prohibits their use in bulk cargo service; in other modes of transportation they are filled and discharged in much the same manner as are MPTs on vessels.

Under 46 CFR 50.20-30 and 46 CFR 90.15, the Coast Guard has accepted IM-specification portable tanks as substitutes for MPTs because it is satisfied that the former provide a level of safety equivalent to that of the latter. Acceptance of these tanks under the equivalence provisions will facilitate the transition from MPTs to IM-specification tanks for manufacturers and vessel operators.

Objectives

As stated in the Notice of Proposed Rulemaking (NPRM) of September 11, 1989 (54 FR 37482), the objectives of this Final Rule are:

1. To discontinue the approval of MPTs by the Coast Guard and to authorize continued use of existing approved MPTs, provided they are maintained and repaired in accordance with the plans originally approved by the Coast Guard and the applicable provisions of 46 CFR part 64 and subpart 98.30 as revised by this Final Rule. The Coast Guard will cease accepting applications to approve plans for MPTs under part 64 on May 1, 1991, and cease performing shop inspections on September 30, 1992. This long lead time will afford manufacturers of MPTs under design or fabrication enough time to complete their work and obtain approval of their current production before the approval program ends.

2. To allow the transfer of liquid hazardous materials to and from IM-specification portable tanks on vessels as long as they comply with the cargo-handling requirements in subpart 98.30 as revised. Because OHMT-designated approval agencies include agencies overseas, allowing such transfer to and from these tanks will alleviate difficulties that vessels overseas have

encountered in obtaining approved portable tanks.

3. To revise the list of hazardous materials now authorized from transfer to and from MPTs on vessels. The current list was originally developed to meet specific needs of the offshore oil-production industry that were urgent at the time of its publication. This list has been partly replaced by provisions allowing the transfer, to and from portable tanks on vessels, of various hazardous materials that are authorized for transport as packaged cargo in portable tanks. The effect of this revision will be to greatly expand the number of authorized cargoes.

4. In consideration of a petition for rulemaking from the American Institute of Merchant Shipping (AIMS), to allow the transfer, to and from portable tanks meeting DOT Specification 57, of Grade E combustible liquids with flashpoints of 300 °F or higher and of cargoes classed by DOT as hazardous substances (Hazard Class "ORM–E") not meeting the definition of any other hazard class.

A further objective, implicit in the NPRM, is:

5. To remove existing subpart 98.35, since the use of the type of tank described in this subpart is no longer authorized.

Discussion of Comments and Amendments to the NPRM

The Coast Guard received three public comments in response to the NPRM: one from a shipper of hazardous materials in MPTs, one from another Federal agency, and one from one of our own field offices. The three comments, addressing a total of eleven elements of the proposed rules, are summarized as follows:

1. The Final Rule should not remove or even restrict operators' ability to safely transfer or store drilling supplies on drilling vessels or structures on the Outer Continental Shelf.

Response: This Final Rule does not affect any practice previously permitted under title 46, CFR. It increases the number and types of hazardous materials authorized for transfer to and from portable tanks on board vessels. It also permits U.S.-flag operators in waters administered by nations other than the U.S. to use portable tanks complying with international standards for the stowage of hazardous materials.

2. The definition of "portable tank" in proposed paragraph (a) of § 98.30–2 does not include any tanks now listed in § 98.33–5. Add a new subparagraph to that paragraph including a tank authorized for the bulk transport of certain Grade E combustible liquids and other regulated materials.

Response: The Coast Guard agrees that paragraph (a) does not include any such tanks, but it disagrees that the paragraph should. Adding a new subparagraph as proposed would make more provisions of subpart 98.30 than the one sought applicable to portable tanks authorized under subpart 98.33. Since this is not the intent in this Final Rule, a paragraph has been added to the applicability sections of subparts 98.30 and 98.33, to clearly state the types of portable tanks to which each subpart applies.

3. Add a new paragraph to § 98.33–5 to read "Any other portable tank as defined in paragraph (a) of § 98.30–2 of this part".

Response: This proposed change is unnecessary. All the cargoes authorized by subpart 98.33 to be transferred to and from portable tanks to which that subpart applies are also authorized by subpart 98.30 to be transferred to and from portable tanks to which it applies. Repeating that authorization in subpart 98.33 would be redundant.

4. a. Expand Table 98.30–5(a) to list by name hazardous materials authorized for transport in MPTs under DOT exemptions.

Response: The commenter proposed that diesel-fuel mixtures and solutions; xylene and xylene mixtures and solutions; hydrochloric acid solutions and mixtures, inhibited and uninhibited; ammonium fluoride solutions; other flammable and corrosive materials; and hazardous materials in class "ORM" be added to the Table. All the materials proposed by the commenter, except flammable liquids of Grades B and C, are authorized for transfer to and from portable tanks, including MPTs, under the terms of paragraph (a) of § 98.30–5, which apply to broad hazard classes rather than to named materials. Expansion of the Table would be redundant. The flammable liquids of Grades B and C desired by the commenter would have to be approved in writing by the Coast Guard as prescribed by paragraph (a)(5) of § 98.30–5.

b. Let the Table include an entry for "All materials authorized by a DOT exemption."

Response: DOT exemptions apply only to the transport of hazardous materials in portable tanks as packaged cargo governed by 49 CFR parts 171 through 179. Such exemptions have no bearing on the transport and transfer of bulk cargoes regulated by the Coast Guard under Title 46, CFR.

5. Paragraph (g) of § 98.30–5, which prohibits transfer of hazardous materials not referred to in that section, appears to be in conflict with paragraph (a)(5) of that section, which permits the transfer of hazardous materials authorized in writing by the Coast Guard.

Response: There is no conflict between these provisions. Paragraph (g) includes the materials authorized under paragraph (a)(5); it prohibits the transfer of materials that are described by neither class nor name, or that are otherwise unauthorized under this section.

6. The capacity requirements in the definition of an MPT in paragraph (a)(1) of § 64.5 should be revised to be consistent with the definition of "bulk packaging" in 49 CFR 171.8.

Response: Such a change is not appropriate. No new construction of MPTs is authorized after September 30, 1992; until then MPTs may be constructed in accordance with the existing specification. The lower limit on capacity, 110 gallons, is based on the definition of "flammable and combustible liquid in bulk" in paragraph (b) of § 90.05–30 and is independent of the definition of "bulk packaging" in 49 CFR 171.8.

7. Eliminate the limit of 55,000 pounds on the gross weight of portable tanks.

Response: Since the MPT specifications will remain for reference after new production of MPTs ceases, there is no need to make this change. The limit of 55,000 pounds does not apply to IM-specification tanks.

8. Add the words "or equivalent to MPT" to paragraph (a)(2)(i) of § 98.30–3a.

Response: The commenter's proposed change would permit the use of a non-DOT-specification portable tank under a DOT exemption if the non-specification portable tank was equivalent to an MPT. This change has not been adopted, since the purpose of this rulemaking is to make IM-specification portable tanks the standard for bulk cargoes. The Coast Guard foresees that non-specification portable tanks, such as those of IMO Type 1 or Type 2, may be authorized under a DOT exemption, But, again, no new MPTs will be approved; therefore, the MPT specification in 46 CFR part 64 will not be effective except for the repair and maintenance of existing MPTs. It follows that any future non-specification portable tank authorized under an exemption should be equivalent to the DOT specifications in effect at the time.

9. Eliminate the proposed reference paragraph (a)(1) of § 98.30–10 to paragraph (g)(2) of 49 CFR 173.32c. Internal valves, remote closing valves, and three serially mounted outlet closures should not be required for

MPTs or IM-specification portable tanks.

Response: This recommendation has not been adopted. Paragraph (a)(1) of § 98.30–10 does not apply to MPTs, which may continue to have the same closure arrangements as previously authorized. All IM-specification portable tanks are required by DOT specification to be equipped as prescribed in paragraph (a)(1) or § 98.30–10. The Coast Guard has neither the intent nor the authority to amend the DOT specification through the present rulemaking. The Coast Guard has, however, forwarded this and the following two comments to the Office of Hazardous Materials Transportation of the Research and Special Programs Administration, DOT, for its consideration.

10. Eliminate the requirement in proposed paragraph (a)(1), now paragraph (b), of § 98.33–5 that the pressure relief device be set at 5 psig. No safety data were presented to justify an increase from 3 psig.

Response: The setting of 5 psig had carried forward from the regulations in title 49, CFR governing the transport of liquid hazardous materials in DOT-specification 57 portable tanks by vessel. The Coast Guard, however, does agree with the commenter that the relief pressure specified in paragraph (b) of § 98.33–5 should be reduced from 5 to 3 psig, because the products authorized for transport and transfer under subpart 98.33 either are not regulated under title 49, CFR, as hazardous materials or, though regulated, need not be transported in DOT specification packaging. Consequently, it is not necessary to require a level of safety equal to that required for more highly hazardous materials such as flammable and corrosive liquids.

11. Revise the IM Tank Table to authorize bottom-outlet discharge for all liquids authorized for transport and transfer under § 98.30–5.

Response: Revision of the IM Tank Table is not within the scope of these regulations or even the purview of the Coast Guard.

Discussion of Amendments Not Treated in the NPRM.

Sections 30.01–5, 70.05–30, 90.05–35, and 109.557, which set forth the requirements for the transport of flammable and combustible liquids by tank vessel, passenger vessel, cargo vessel, and MODU, respectively; and §§ 151.01–1 and 153.1, which state the applicability of parts 151 and 153 to barges and ships carrying hazardous materials, have been revised editorially to make their provisions consistent with the revised provisions of parts 64 and 98. Because these changes are not substantive, notice and opportunity for comment are unnecessary.

Regulatory Evaluation

This rule is not major under Executive Order 12291 and not significant under DOT's "Policies and Procedures for Simplification, Analysis and Review of Regulations" published on February 26, 1979 (44 FR 11034). A Regulatory Evaluation is in the rulemaking docket. It may be inspected and copied at the address given above under **ADDRESS**. Copies are available from the person named above under **FOR FURTHER INFORMATION CONTACT**.

This Final Rule affects owners, manufacturers, and users of MPTs. Its costs to the public are minimal. Replacing MPTs in marine service with IM 101 and IM 102 portable tanks will result in several benefits to the industry:

a. Design approval and construction will be unaffected by backlogs in the Marine Safety Center and by delays in scheduling inspections;

b. Approval agencies can better accommodate tight schedules and solve problems;

c. The IM-specification tanks are truly intermodel, providing flexibility in tank deployment;

d. The availability of portable tanks, especially overseas, will improve; and

e. The number of authorized cargoes is much larger.

Shifting responsibility for design review, inspection, and testing of portable tanks to third-party approval agencies removes the Coast Guard from competition with private industry while reducing its effort (predominantly in technical support) by 95% or by about 600 manhours a year. The savings to the Coast Guard are about $17,000 a year. There might be some increase in costs to the industry in acquiring design approval, inspection, and testing of their portable tanks. Costs could range up to $1,000 for a single tank built to a new design, or down to $100 a tank for one of multiple tanks built from the same design drawings. The latter cost is the more common, and it represents a negligible increment. The total increase in costs to all purchasers of portable tanks for use in the service discussed in this preamble is about $35,000 a year.

Each of the three known private sector operators affected by AIM's petition owns 20 or so DOT-specification 57 portable tanks. If subpart 98.33 were not adopted, these operators would have to replace their existing tanks with MPTs or IM 102 portable tanks at a cost of about $8,000 each. The total cost of such a replacement is about $160,000 an operator or $480,000 for the affected industry.

Regulatory Flexibility

Because it expects the impact of this Final Rule to be minimal, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this Final Rule will not have a significant economic impact on a substantial number of small entities.

Environmental Analysis

The Coast Guard has thoroughly reviewed this Final Rule and has determined it to be categorically excluded from further environmental documentation in accordance with section 2.B.2.1 of Commandant Instruction M16475.1B. It has prepared and filed in the rulemaking docket a Determination of Categorical Exclusion.

Federalism

The Coast Guard has analyzed this Final Rule in accordance with the principles and criteria in Executive Order 12612. It has determined that this rulemaking does not have sufficient implications for federalism to warrant its preparation of a Federalism Assessment.

Paperwork Reduction Act

This Final Rule does not add any significant reporting or record-keeping requirements or increase the paperwork burden on industry. Information-collection and record-keeping requirements in paragraph (b) of § 64.7, paragraph (c) of § 64.9, § 98.30–3, and paragraph (b)(3) of § 98.33–1 are included under OMB control number 2115–0142. Since the Coast Guard will accept no new applications for approval of MPTs after May 1, 1991, there will be a net reduction in the information collection approved under OMB Control Number 2115–0142. The reporting and record-keeping burdens associated with the approval, inspection, and periodic retesting of IM-specification portable tanks are addressed under OMB Control Number 2137–0018.

New paragraph (a)(5) of § 98.30–5 and paragraph (c) of § 98.33–3 allow the Coast Guard to authorize the transfer of materials not specifically covered by the proposed regulations. The Coast Guard does not anticipate that this will generate more than one or two requests annually, resulting in only a minor increment to the existing information collection approved under OMB Control Number 2115–0016.

List of Subjects in 46 CFR parts 30, 64, 70, 90, 98, 109, 151, and 153

Hazardous materials transportation, Incorporation by reference, Marine safety, Packaging and containers, Vessels.

For the reasons set forth in the Preamble, the Coast Guard is amending parts 30, 64, 70, 90, 98, 109, 151, and 153 of title 46, Code of Federal Regulations, as follows:

PART 30—GENERAL PROVISIONS

1. The authority citation for part 30 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; 49 U.S.C. App. 1804; 49 CFR 1.45, 1.46; Section 30.01–2 also issued under the authority of 44 U.S.C. 3507.

2. By revising paragraph (a) of § 30.01–5 to read as follows:

§ 30.01–5 Application of regulations—TB/ALL.

(a) The regulations in this subchapter contain requirements for materials, design, construction, inspection, manning, and operation of tank vessels, including handling and stowage of cargo and duties of officers and crew. However, vessels certificated as passenger, cargo, and miscellaneous vessels, whose principal purpose or use is not the carriage of flammable or combustible liquid cargo in bulk, may be granted a permit to carry limited quantities of flammable or combustible liquid cargo in bulk in the grades indicated:

(1) Passenger vessels:

(i) Grade E in an integral tank; and

(ii) Grade E in a portable tank, including a marine portable tank (MPT), in accordance with subpart 98.30 or 98.33 of this chapter.

(2) Cargo vessels:

(i) Grades D and E in an integral tank; and

(ii) Grades D and E and certain specifically named Grade C in a portable tank, including an MPT, in accordance with subpart 98.30 or 98.33 of this chapter.

(3) Miscellaneous vessels, such as cable, salvage, pile-driving and oil-drilling-rig vessels:

(i) Grades B, C, D, and E in a fixed independent or integral tank authorized by the Commandant; and

(ii) Grades D and E and certain specifically named Grade C in a portable tank, including an MPT, in accordance with subpart 98.30 or 98.33 of this chapter.

* * * * *

PART 64—MARINE PORTABLE TANKS AND CARGO HANDLING SYSTEMS

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

Authority: 46 U.S.C. 3306, 3703; 49 U.S.C. App. 1804; 49 CFR 1.46.

3a. By revising the heading of part 64 to read as set forth above.

4. By revising § 64.1 to read as follows:

§ 64.1 Purpose.

This part contains the requirements for:

(a) Design, construction, repair, alteration, and marking of marine portable tanks (MPTs) authorized by this chapter to be carried on inspected vessels;

(b) Periodic inspections and tests of MPTs; and

(c) Design and construction of cargo-handling systems for MPTs and other portable tanks authorized under subparts 98.30 and 98.33 of this chapter.

5. By adding new § 64.2 to read as follows:

§ 64.2 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a). To enforce any edition other than the one listed in paragraph (b) of this section, the Coast Guard must publish notice of the change in the **Federal Register** and make the material available to the public. All approved material is on file at the Office of the Federal Register, 1100 L Street NW., Washington, DC; and at the U.S. Coast Guard, Office of Marine Safety, Security, and Environmental Protection, 2100 Second Street SW, Washington, DC., and is available from the source indicated in paragraph (b) of this section.

(b) The material approved for incorporation by reference in this part, and the sections affected, are:

American Society of Mechanical Engineers

United Engineering Center, 1345 East 47th Street, New York, NY 10017.

ASME Boiler and Pressure Vessel Code, Section VIII, Division 1, Pressure Vessels, 1989, with Addenda issued December 31, 1989 ("ASME Code")...64.5, 64.7, 64.11, 64.13, 64.21, 64.25, 64.31

6. By revising § 64.3 to read as follows:

§ 64.3 Applicability.

(a) This part applies to each MPT for which the Commanding Officer, U.S. Coast Guard Marine Safety Center, receives an application for approval on or before May 1, 1991.

(b) Subpart F of this part also applies to portable tanks and to cargo-handling systems for portable tanks authorized under subparts 98.30 and 98.33 of this chapter.

7. By revising paragraphs (a) and (d) of § 64.5 to read as follows:

§ 64.5 Definitions.

(a) *Marine portable tank* or "MPT" means a liquid-carrying tank that—

(1) Has a capacity of 110 gallons or more;

(2) Is designed to be carried on a vessel;

(3) Can be lifted full or empty onto and off a vessel, and can be filled and discharged while on a vessel;

(4) Is not permanently attached to the vessel; and

(5) Was inspected and stamped by the Coast Guard on or before September 30, 1992.

* * * * *

(d) *Maximum allowable working pressure* means the maximum gauge pressure at the top of the tank in the operating position at 122° F, equal to or greater than the total containment pressure as defined in paragraph (c) of this section. The maximum allowable working pressure is used in the calculation of the minimum thickness of each element of the tank, excluding the allowance for corrosion and the thickness for loadings other than pressure, as provided for in the ASME Code.

* * * * *

§ 64.7 [Removed]

8. By removing § 64.7, as of September 30, 1992.

9. By revising § 64.9 to read as follows:

§ 64.9 Maintenance, repair, and alteration of MPTs.

(a) Each MPT must be maintained in accordance with the approved plans, this part, and subpart 98.30 of this chapter.

(b) Repair of an MPT is authorized, provided that each repair is in accordance with the approved plans.

(c) No MPT may be altered, except with the written approval of the Commanding Officer, U.S. Coast Guard Marine Safety Center.

(d) After each welded repair or alteration, an MPT must be hydrostatically pressure-tested in accordance with paragraph (a) of § 64.83 of this part.

10. By revising § 64.11, including the heading of the section, to read as follows:

§ 64.11 Design of MPTs.

An MPT must be designed—

(a) In accordance with the ASME Code and this subpart;

(b) With a maximum gross weight of 55,000 pounds;

(c) To hold a liquid cargo that has a vapor pressure of 43 pounds per square inch absolute (psia) or less at a temperature of 122 °F;

(d) With a minimum service temperature of 0 °F or higher;

(e) With a maximum allowable working pressure of not less than 20 pounds per square inch guage (psig) but not more than 48 psig; and

(f) To withstand dynamic loading conditions applied simultaneously.

§§ 64.7, 64.13, 64.21, 64.25, 64.31 [Amended]

11. In paragraph (a)(4) of § 64.7, in paragraph (a) of § 64.13, in § 64.21, in paragraph (b) of § 64.25; in § 64.31, and in footnote 1 to paragraph (b) of § 64.13, by removing the comma and words reading ", 1974 edition".

12. By revising § 64.53, including the heading of the section, to read as follows:

§ 64.53 Information plate for MPTs.

(a) A corrosion-resistant metal plate containing the information in paragraph (b) of this section must be permanently attached to each MPT.

(b) Each information plate required in paragraph (a) of this section must bear the following information in legible letters $^3/_{16}$ inch or more in height:

(1) Owner's name.

(2) Manufacturer's name.

(3) Date of manufacture.

(4) Serial number of tank.

(5) Maximum allowable working pressure in psig.

(6) Test pressure in psig.

(7) External-pressure rating in psig.

(8) Total capacity in gallons.

(9) Maximum net weight in long tons.

(10) Maximum gross weight in long tons.

(11) Percent ullage at 122 °F.

(12) Date of hydrostatic test.

13. By revising the heading of subpart C to read as follows:

Subpart C—Pressure Relief Devices and Vacuum Relief Devices for MPTs

14. By revising the heading and the introductory text of § 64.57 to read as follows:

§ 64.57 Acceptance of pressure relief devices.

A pressure relief device for an MPT must be—

* * * * *

15. In paragraph (a) of § 64.63, by revising the formula to read as follows:

§ 64.63 Minimum emergency venting capacity.

(a) * * *

$$Q = 633{,}000 \frac{A^{0.82}}{L\,C} \frac{Z\,T}{M}$$

* * * * *

16. By revising § 64.65 to read as follows:

§ 64.65 Vacuum relief device.

(a) Each MPT that is designed for an external pressure of less than 7.5 psig must have a vacuum relief device.

(b) A vacuum relief device for an MPT must—

(1) Open at an external pressure of not less than 3 psig; and

(2) Have an opening with a cross-section of 0.44 square inch or more.

§§ 64.73 and 64.75 [Removed]

17. By removing subpart D, consisting of §§ 64.73 and 64.75, as of September 30, 1992.

18. By revising the heading of subpart E to read as follows:

Subpart E—Periodic Inspections and Tests of MPTs

19. By revising the introductory paragraph of § 64.77 to read as follows:

§ 64.77 Inspection and test.

For the handling and stowage requirements in § 98.30–3 of this chapter, each MPT must pass the following inspections and tests conducted by the owner or the owner's representative:

* * * * *

§ 64.85 [Removed]

20. By removing § 64.85.

21. By revising § 64.87 to read as follows:

§ 64.87 Purpose.

Each cargo-handling system required to satisfy § 98.30–25 or § 98.33–13 of this chapter must meet the requirements of this subpart.

22. By adding new § 64.88 to read as follows:

§ 64.88 Plan approval, construction, and inspection of cargo-handling systems.

Plans for the cargo-handling system of a portable tank authorized under subpart 98.30 of this chapter must be approved by the Coast Guard in accordance with the requirements of § 56.01–10 of this subchapter. In addition, the cargo-handling system must be constructed and inspected in accordance with part 56 of this subchapter.

PART 70—GENERAL PROVISIONS

23. The authority citation for part 70 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; 49 U.S.C. App. 1804; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.45, 1.46; § 70.01–15 also issued under 44 U.S.C. 3507.

24. By revising § 70.05–30 to read as follows:

§ 70.05–30 Combustible liquid in bulk.

Vessels inspected and certificated under this subchapter may carry limited quantities of combustible liquid cargo in bulk in the grades indicated, provided the certificate of inspection is endorsed to permit such carriage:

(a) Grade E in an integral tank; and

(b) Grade E in a portable tank, including a marine portable tank, in accordance with subpart 98.30 or 98.33 of this chapter.

PART 90—GENERAL PROVISIONS

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

Authority: 46 U.S.C. 3306, 3703; 49 U.S.C. App. 1804; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

26. By revising § 90.05–35 to read as follows:

§ 90.05–35 Flammable and combustible liquids in bulk.

Vessels inspected and certificated under this subchapter may carry limited quantities of flammable and combustible liquid cargo in bulk in the grades indicated, provided the Certificate of Inspection is endorsed to permit such carriage:

(a) Cargo vessels:

(1) Grades D and E in an integral tank; and

(2) Grades D and E and certain specifically named Grade C in a portable tank, including a marine portable tank (MPT), in accordance with subpart 98.30 or 98.33 of this subchapter.

(b) Miscellaneous Vessels, such as cable, salvage, pile-driving, and oil-drilling-rig vessels:

(1) Grades B, C, D, and E in a fixed independent or integral tank authorized by the commandant;

(2) Grades D and E and certain specifically named Grade C in a portable tank, including an MPT, in accordance with subpart 98.30 or 98.33 of this subchapter.

PART 98—SPECIAL CONSTRUCTION, ARRANGEMENT, AND OTHER PROVISIONS FOR CERTAIN DANGEROUS CARGOES IN BULK

27. The authority citation for part 98 continues to read as follows:

Authority: 33 U.S.C. 1903; 46 U.S.C. 3306, 3703; 49 U.S.C. App. 1804; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 98.01-1 [Amended]

28. By removing and reserving paragraphs (b) and (d) of § 98.01-1.

§ 98.01-5 [Removed]

29. By removing § 98.01.5.

30. By revising the heading of subpart 98.30 to read:

Subpart 98.30—Portable Tanks

31. By revising § 98.30-1 to read as follows:

§ 98.30-1 Applicability.

(a) This subpart contains regulations concerning transfer of combustible liquids, certain flammable liquids, and other hazardous materials to or from portable tanks on vessels.

(b) This subpart applies to the following portable tanks:

(1) A marine portable tank (MPT);

(2) An IM 101 or IM 102 portable tank; and

(3) A portable tank authorized for liquid hazardous materials, other than liquefied gases, by the Director, Office of Hazardous Materials Transportation (OHMT), under an exemption issued in accordance with Subpart B of 49 CFR Part 107.

32. By adding new § 98.30-2 to read as follows:

§ 98.30-2 Definitions.

(a) *IM 101 portable tank* and *IM 102 portable tank* mean a portable tank constructed in accordance with 49 CFR 178.270 through 178.272 and approved under 49 CFR 173.32a.

(b) MPT means a marine portable tank that was inspected and stamped by the Coast Guard on or before September 30, 1992, and that meets the applicable requirements in this part and part 64 of this chapter.

33. By revising § 98.30.3, including the heading of the section, to read as follows:

§ 98.30-3 Vessels carrying MPTs.

Each MPT on a vessel to which this part applies must bear, on a metal or other corrosion-resistant tag—

(a) An inspection date for pressure relief devices and vacuum relief devices in accordance with paragraph (b) of § 64.79 of this chapter that is not more than 12 months earlier than the month in which the vessel is operated;

(b) An inspection date in accordance with paragraph (b) of § 64.81 of this chapter that is not more than 30 months earlier than the month during which the vessel is operated; and

(c) A hydrostatic test date in accordance with paragraph (b) of § 64.83 of this chapter that is not more than 60 months earlier than the month during which the vessel is operated.

§ 98.30-4 [Redesignated as § 98.30-14]

34. By redesignating present §98.30-4 as § 98.30-14, and adding new §98.30-4 to read as follows:

§ 98.30-4 Vessels carrying portable tanks other than MPTs.

(a) Each portable tank, other than an MPT, on board a vessel to which this part applies must be one of the following:

(1) An IM 101 or IM 102 tank authorized for its contents in accordance with 49 CFR part 173 under the conditions set forth in the IM Tank Table, January 1, 1981, with errata sheet effective May 1, 1981;[1] or

(2) A portable tank authorized by the Director, OHMT, under an exemption issued in accordance with subpart B of 49 CFR part 107, and

(i) According to the terms of the exemption, equivalent to an IM 101 or IM 102 portable tank; and

(ii) Authorized for its contents under the terms of the exemption or by written acknowledgment from the Director, OHMT.

(b) Each IM 101 or IM 102 portable tank must be tested and inspected in accordance with 40 CFR 173.32b, and used only as specified in 49 CFR 173.32c.

(c) Each portable tank authorized under an exemption from the Director, OHMT, must be inspected and tested, maintained, and used in accordance with the terms of that exemption.

§ 98.30 [Redesignated as § 98.30—6]

35. By redesignating present § 98.30-5 as § 98.30-6 and by adding new § 98.30-5 to read as follows:

§ 98.30-5 Materials authorized for transfer to and from a portable tank.

(a) The following hazardous materials may be transferred to and from a portable tank under this subpart:

(1) Any Grade D or Grade E combustible liquid listed in § 30.25-1 of this chapter that does not meet the definition of any hazard class in 49 CFR part 173 other than that of "flammable liquid", "combustible liquid", or "ORM-E";

(2) Any corrosive liquid that—

(i) Is compatible with the materials of the tank;

Meets the definition of no other hazard class in 40 CFR part 173; and

(iii) Is authorized for transport in an IM 101 or IM 102 portable tank under subpart F of 49 CFR part 173;

(3) Any hazardous material listed in Table 98.30-5(a);

(4) Any liquid hazardous substance classed under 49 CFR part 172 as Class "ORM-E" and listed in the appendix to 49 CFR Table 172.101, and any aqueous solution of a solid hazardous substance classed as ORM-E and listed in that appendix; and

(5) Other cargoes subject to regulation under 49 CFR parts 171 through 176 when authorized in writing by the Commandant. Requests for such authorization must be submitted as prescribed in § 153.900(d)(1) of this chapter.

Table 98.30-5(a) Certain Hazardous Materials Authorized For Transfer To and From Portable Tanks

Acetone
Alcohols; flash point of 80 °F (27 °C) or less by open-cup test
Benzene
Gasoline
Mixtures of Hydrochloric acid and hydrofluoric acid containing not more than 36 percent hydrochloric acid or 2 percent hydrofluoric acid [1]
Methyl Ethyl Ketone
Toluene (Toluol)

Note:
[1] Each MPT must be lined with rubber or with material equally acid-resistant and equally strong and durable.

(b) Grade D and Grade E combustible liquids with a flash point of 100 °F (38 °C) or higher by closed-cup test that are not listed by name in the IM Tank Table may be transferred to and from an MPT or an IM 102 portable tank conforming to the entry in the IM Tank Table for "Combustible liquid, not listed by name in this table."

(c) Sulfuric acid having a concentration of not over 51 percent may be transferred to or from an MPT only if the MPT is lined with rubber or with material equally acid-resistant and equally strong and durable.

(d) Sulfuric acid having a concentration of 65.25 percent or greater may be transferred to or from any portable tank; *provided* that the corrosion rate on steel, measured at 100 °F (38 °C), of sulfuric acid having a

[1] The IM Tank Table may be obtained from Commandant (G-MTH-1), U.S. Coast Guard, Washington, DC 20593-0001.

concentration of greater than 65.25 percent is not greater than the corrosion rate of such an acid having a concentration of 65.25 percent.

(e) Liquids classed as ORM–E may be transferred only to or from an IM 101 or IM 102 portable tank or an MPT.

(f) A hazardous material that may be transferred to and from an IM 102 portable tank may also be transferred to and from an IM 101 portable tank.

(g) No hazardous material not referred to in this section may be transferred to or from a portable tank on board a vessel.

36. By adding a new § 98.30–8 to read as follows:

§ 98.30–8 Gaskets and lining.

No person may transfer a hazardous material to or from a portable tank on board a vessel unless each gasket and the lining of the portable tank are made of a material that is—

(a) Chemically compatible with the product for which the portable tank is approved; and

(b) Resistant to deterioration by the product for which the portable tank is approved.

37. By revising the section heading and paragraph (b)(2) of § 98.30–9 to read as follows:

§ 98.30–9 Stowage of portable tanks.

* * * * *

(b) * * *

(2) Unless all electrical equipment in the area of the tank and its associated equipment is explosion-proof or intrinsically safe, as defined in §§ 111.105–9 and 111.105–11 of this chapter, that is—

* * * * *

38. By adding a new § 98.30–10 to read as follows:

§ 98.30–10 Pipe connections, and filling and discharge openings.

No person may transfer a hazardous material to or from a portable tank on board a vessel, unless each filling and discharge opening in the tank bottom is equipped with the following:

(a) For an IM 101 or IM 102 portable tank, the closures specified in 49 CFR 173.32c(g)(2); and

(b) For an MPT, the valves and closures specified in §§ 64.33 through 64.41 of this chapter.

§ 98.30–14 [Amended]

39. In the section heading and paragraphs (a) and (b) of § 98.30–14, by removing the word "marine" from before "portable tank".

§ 98.31–5 [Amended]

40. In § 98.31–5, by removing the word "marine" from before "portable tank".

41. By adding a new subpart 98.33 to read as follows:

Subpart 98.33—Portable Tanks for Certain Grade E Combustible Liquids and Other Regulated Materials

Sec.
98.33–1 Applicability.
98.33–3 Cargoes authorized.
98.33–5 Portable tanks authorized.
98.33–7 Pipe and hose connections.
98.33–8 Stowage.
98.33–11 Smoking
98.33–13 Cargo-handling systems.
98.33–15 Transfers.

Subpart 98.33—Portable Tanks for Certain Grade E Combustible Liquids and Other Regulated Materials

§ 98.33–1 Applicability.

(a) This subpart contains regulations concerning transfer of certain low-hazard materials to and from portable tanks on vessels

(b) This subpart applies to the following portable tanks:

(1) A DOT-specification 57 portable tank (see 49 CFR 173.24, 173.32, 173.251, and 173.253);

(2) A portable tank authorized under 49 CFR 176.340(a)(4); and

(3) A portable tank approved by the Commandant under subpart 50.20 of this chapter.

§ 98.33–3 Cargoes authorized.

The following cargoes are authorized for transfer to and from portable tanks authorized by § 98.33–5:

(a) Grade E combustible liquids that have a closed-cup flashpoint of 300 °F or higher and that meet the definition of no DOT hazard class in 49 CFR part 173 except hazardous substance "ORM–E");

(b) Materials and aqueous solutions of them that meet the definition of hazardous substance in 49 CFR 171.8 and that are of DOT Hazard Class ORM–E (see appendix to 49 CFR 172.101; see 49 CFR part 173, subpart J); and

(c) Other cargoes subject to regulation under 49 CFR parts 171 through 176 when authorized in writing by the Commandant. Requests for such authorization must be submitted as prescribed in § 153.900(d)(1) of this chapter.

§ 98.33–5 Portable tanks authorized.

The cargoes authorized under § 98.33–3 may be transferred to and from portable tanks to which this subpart applies if the portable tanks have:

(a) A minimum design pressure of 9 psig.

(b) Pressure-relief devices that may be frangible pressure-relief devices [rupture disks], and that do not open at less than 3 psig.

§ 98.33–7 Pipe and hose connections.

If a portable tank authorized under § 98.33–5 of this part has a pipe or hose connection in its bottom, the connection must have a manually operated valve and a bolted flange, threaded cap, or similar device, to protect against leakage of the tank's contents.

§ 98.33–9 Stowage.

Each portable tank authorized under § 98.33–5 of this part must be secured to the vessel by devices of sufficient strength and number to prevent the tank from moving in any direction during transport.

§ 98.33–11 Smoking.

No person may smoke when—

(a) Within 50 feet of a portable tank containing a combustible liquid; and

(b) On the deck where the tank is stowed.

§ 98.33–13 Cargo-handling systems.

A cargo authorized under § 98.33–3 of this part may not be transferred to or from a portable tank authorized under § 98.33–5 of this part unless the cargo-handling system meets the requirements of subpart F of part 64 of this chapter.

§ 98.33–15 Transfers.

A cargo authorized under § 98.33–3 of this part may not be transferred to or from a portable tank authorized under § 98.33–5 of this part unless the following requirements are met:

(a) *Cargo pumps* comply with § 98.30–11 of this part;

(b) *Ground connection* complies with § 98.30–13 of this part;

(c) *Leakage containment* complies with § 98.30–15 of this part;

(d) *Qualification of person in charge* complies with § 98.30–17 of this part;

(e) *Supervision of person in charge* complies with § 98.30–19 of this part;

(f) *Transfers, general,* comply with § 98.30–23 of this part;

(g) *Connections* comply with § 98.30–27 of this part;

(h) *Pumping of incompatible products* complies with § 98.30–29 of this part; and

(i) *Conditions for pumping* comply with § 98.30–31 of this part.

(j) *Carriage of NLSs* complies with § 98.30–14 of this part.

§§ 98.35–1 through 98.35–50 [Removed]

42. By removing subpart 98.35, entitled "Portable Tanks Constructed Before October 1, 1974 That Carry Combustible Liquids" (consisting of §§ 98.35–1 through 98.35–50).

PART 109—OPERATIONS

43. The authority citation for part 109 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.SC. 3306, 5115, 6101, 10104; 49 CFR 1.46.

44. By revising paragraph (b) of § 109.557 to read as follows:

§ 109.557 Flammable and combustible liquids: Carriage.

* * * * *

(b) Portable tanks are handled and stowed in accordance with subparts 98.30 and 98.33 of this chapter and the provisions of 49 CFR parts 171 through 179 that apply to portable tanks; and

* * * * *

PART 151—BARGES CARRYING BULK LIQUID HAZARDOUS MATERIAL CARGOES

45. The authority citation for part 151 continues to read as follows:

Authority: 33 U.S.C. 1903(b); 46 U.S.C. 3703; 49 CFR 1.46.

46. By revising paragraphs (a)(2) and (b)(2) of § 151.01–1 to read as follows:

§ 151.01–1 Applicability.

(a) * * *

(2) Not being carried in a portable tank regulated under subpart 98.30 or 98.33 of this chapter; and

* * * * *

(b) * * *

(1) * * *

(2) Not being carried in a portable tank regulated under subpart 98.30 or 98.33 of this chapter.

PART 153—SHIPS CARRYING BULK LIQUID, LIQUEFIED GAS, OR COMPRESSED GAS HAZARDOUS MATERIALS

47. The authority citation for part 153 continues to read as follows:

Authority: 46 U.S.C. 3703; 49 CFR 1.46. Section 153.40 issued under 49 U.S.C. 1804. Sections 153.470 through 153.491, 153.1100 through 153.1132, and 153.1600 through 153.1608 also issued under 33 U.S.C. 1903(b).

48. By revising paragraphs (a)(2) and (b)(2) of § 153.1 to read as follows:

§ 153.1 Applicability.

(a) * * *

(2) The ship is carrying the cargo in a portable tank under subpart 98.30 or 98.33 of this chapter; or

* * * * *

(b) * * *

(2) The ship is carrying the cargo in a portable tank under subpart 98.30 or 98.33 of this chapter;

* * * * *

Dated: July 3, 1990

J. D. Sipes,

Rear Admiral, U.S. Coast Guard Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 90–21024 Filed 9–10–90; 8:45 am]

BILLING CODE 491–015–M

federal register

Tuesday
September 11, 1990

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 147

Revision of Aviation Maintenance Technician Schools Regulations; Notice of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 147

[Docket No. 26331; Notice No. 90-22]

RIN 2120-AD09

Revision of Aviation Maintenance Technician Schools Regulations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to update the regulations for certificating aviation maintenance technician schools (AMTS) to accommodate the increasing demand for maintenance technicians with higher levels of skill and knowledge. This proposal, if adopted, would: (1) Modify portions of the current rule that have been open to subjective judgments by the Federal Aviation Administration (FAA) and the AMTS industry, and (2) modify the rule to upgrade the portions that specify the skill and knowledge requirements for an aviation maintenance technician. In addition, the proposal, if adopted, would revise the core curriculum to ensure that a person graduating from an aviation maintenance technician school will be prepared to function in the current technological environment.

DATES: Comments must be received on or before December 11, 1990.

ADDRESSES: Comments on this notice should be mailed, in triplicate, to: Federal Aviation Administration, Office of the Chief Counsel, ATTN: Rules Docket (AGC-10), Docket No. 26331, 800 Independence Avenue SW., Washington, DC 20591. Comments delivered must be marked Docket No. 26331. Comments may be examined in room 915G weekdays between 8:30 a.m. and 5 p.m., except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Leslie K. Vipond, AFS-302, Aircraft Maintenance Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267-3269.

SUPPLEMENTARY INFORMATION:

Comments Invited

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. Comments relating to the environmental, energy, federalism, or economic impact that might result from adopting the proposals in this notice are also invited. Substantive comments should be accompanied by cost estimates. Comments should identify the regulatory docket or notice number and should be submitted in triplicate to the Rules Docket address specified above. All comments received on or before the closing date for comments will be considered by the Administrator before taking action on this proposed rulemaking. The proposals contained in this notice may be changed in light of comments received. All comments received 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 substantive public contact with FAA personnel concerned with this proposed rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 26331." The postcard will be date stamped and mailed to the commenter.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, ATTN: Public Inquiry Center, APA-430, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should request a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedures.

Background

Statement of the Problem

Part 147 of the Federal Aviation Regulations (FAR), Aviation Maintenance Technician Schools (AMTS), specifies requirements for the operation of an AMTS. The regulations specify both the curriculum and operating rules for all certificated AMTS.

The civil aviation environment in which the aviation maintenance technician operates has changed significantly since the regulations now covered by part 147 were first adopted in 1970. Thus, a person could graduate from a part 147-approved AMTS and yet be poorly prepared to function in the current aviation environment. This phenomenon of technology overtaking the current part 147 rules is reflected by the increasing trend of AMTS to offer or require additional supplemental course material beyond the required core curriculum.

History

Part 147 of the FAR, Aviation Maintenance Technician Schools (AMTS), has its origin in Civil Air Regulation (CAR) part 53. When the Civil Air Regulations were recodified in 1962, CAR part 53 become part 147 of the FAR. In April 1970, part 147 was completely revised, the revision increasing the required core curriculum from 1,500 to 1,900 hours and setting forth more definitive subject content and teaching guidelines than before. With the exception of minor changes, part 147 remains essentially the same as it was in 1970. In the late 1970's, the FAA and the Aviation Technician Education Council (ATEC), an association of the majority of aviation maintenance technician schools, held a series of symposia workshops to develop a more objective interpretation of part 147 by both the industry and the FAA.

FAA participation in the symposia was consistent with the FAA practice to solicit comments on current rules and proposed rule changes in order to promote understanding and cooperation between government and industry. Many of the comments and conclusions arising from these workships are preserved in ATEC's historical records and have been considered in the preparation of this notice.

The symposia indicated that most of the AMTS believe that the core curriculum needs to be updated to be consistent with the current practices and requirements of the aviation industry.

The FAA/ATEC part 147 symposia findings indicated that lack of clarity in certain portions of the rule has led to some subjective interpretations by FAA Aviation Safety Inspectors certificating or surveilling some AMTS. The interpretation of the current rules has been the focus of many questions from the AMTS industry concerning uniform application of part 147 by the FAA from region to region.

In keeping with FAA policy to continue to upgrade these regulations, the FAA contacted the airlines, AMTS, repair stations, and mechanic organizations to consider holding joint industry/FAA public meetings to discuss proposed changes. The FAA held a series of three public meetings in 1988 that had significant input from the aviation industry. The first meeting was held in Atlanta, Georgia, on August 29 and 30; the second was held in

Oklahoma City, Oklahoma, on September 8 and 9; and the third was held in San Jose, California, on September 15 and 16. The agenda of the meetings was based on the earlier symposia and more recent questions from the AMTS and airline industry. These public meetings produced an outline of certain proposed changes for the rule. It now appears appropriate to consider modifications of the portions of the rule that govern AMTS curriculum, administration, and operating rule requirements.

Planned Actions

The FAA has completed an in-depth review of part 147 based on the recent public meetings and the previous symposia and proposes to amend portions of the rule as appropriate. To the extent possible, the proposals will establish requirements consistent with current and projected industry technologies. The actions planned take into account complex and newly evolving technologies and their relationship to aviation maintenance requirements in the current and future aviation environment. In addition, the FAA proposes to clarify certain portions of the AMTS operating rules to reduce subjective rule interpretations by both the AMTS and the FAA. This will ensure a more uniform application of the rule in each FAA region.

The need for an updated core curriculum expressed by industry is addressed by the proposed amendments to §§ 147.21 and 147.31 and appendixes A, B, C, and D of part 147. The need to clarify the administrative and operating rules is addressed by the proposed amendment to §§ 147.5, 147.15, 147.17, 147.19, 147.21, 147.23, 147.31, 147.35, 147.36, and 147.38.

General Discussion of the Proposals

The AMTS association and the airline industry have expressed a need for both a revised core curriculum and revised administrative requirements for part 147 schools in order to provide an upgraded education to meet the technological requirements of the aviation environment both today and in the future. This concern can be addressed satisfactorily by the proposed changes to part 147 that would modify portions of the required curriculum by specifying what new subjects are to be taught and at what teaching levels these subjects are to be taught, and would provide new language to clarify certain portions of the regulations. It is anticipated that by modifying §§ 147.21 and 147.31 and portions of appendixes A, B, C, and D of part 147, the technical knowledge requirements for aviation maintenance technicians can be raised to the desired levels. The modification of § 147.21, General Curriculum Requirements, and § 147.31, Attendance And Enrollment, Tests and Credit For Prior Instruction Or Experience, will clarify the AMTS operating criteria. This action should also reduce requirements on FAA certification and surveillance resources. Additionally, the FAA believes that the adoption of this proposed rule will result in an increase in safety because of the higher quality graduates that the AMTS are expected to produce.

Under this proposal, the AMTS curriculum will become more explicit and uniform than is now the case. Sections 147.21 and 147.31 have sometimes been inconsistently applied by both the FAA and the AMTS. As an example, these sections have sometimes been misinterpreted as requiring an AMTS student, when not enrolled in a combined airframe and powerplant curriculum, to repeat the general portion of the AMTS curriculum when seeking more than one rating. The FAA proposes to amend these sections to eliminate the potential for misinterpretation by the AMTS. Specifically, these sections will include additional language to clearly provide that the general portion of an AMTS curriculum need only be taken once, regardless of the type of curriculum in which a student is enrolled.

Section 147.5(a)

The current rule requires applicants for AMTS certificates to provide the FAA with a list of instructors and the subjects to be taught by each. This provision currently restricts schools from using otherwise qualified instructors to teach subjects for which they are not listed without prior notification of the FAA. Under the proposal, this section would be changed to require that an applicant provide the FAA only with a list of all of the FAA-certificated instructors it expects to use. This would permit a more efficient use of instructors and would remove an administrative burden from the AMTS and the FAA. The proposal removes the requirement that applicants submit photographs of the facilities, because historically, photographs have not served any useful purpose in determining whether an applicant met acceptable standards.

Section 147.15

Under the proposal, this section would be amended by removing the requirement for separate classroom and shop space. This change would provide more flexibility for schools to better use existing classroom and laboratory areas. The current language requiring suitable space for engine overhaul also would be deleted to eliminate any inference that schools are required to overhaul engines used for mechanic training to an airworthy condition.

Section 147.17(a)(2)

The proposed amendment to this section would require that the applicant's aircraft be fitted with navigation and communications equipment instead of the current requirement for a two-way radio. This change is intended to assure that the schools are exposing students to the types of navigation and communications equipment which are most prevalent in modern aircraft.

Section 147.19

The proposed amendment to this section would eliminate the reference to tools and instead require the AMTS to supply only special tools that might be needed for such projects as engine calibration. This proposed change serves to clarify the existing interpretation on who is financially responsible to provide common tools, the student or the schools.

Section 147.21

Under the proposal, this section would be amended to permit schools to use a standard 50-minute instruction unit hour to conform with the class time practice in use today at most educational institutions. Another proposed amendment to this section would provide specific language to permit schools to teach material at a teaching level equal to or higher than that shown in appendix A of this rule. An additional amendment proposed to this section would provide schools with more flexibility in the scheduling of tests by requiring only a listing of the proposed tests, thereby allowing schools more flexibility in developing test schedules. A final proposed amendment to this section would give schools greater flexibility in allocating student time between practical and theory-based instruction. Thus, the current rule's requirement that 50 percent of the total curriculum time be spent in shop or laboratory classes would be eliminated.

The FAA recognizes that today's aviation maintenance environment requires mechanics to have a sound understanding of entire aircraft computer-based systems, rather than just physical or hands-on experience. Therefore, some schools may desire to place a greater emphasis on theory-based instruction involving the study of computer-based systems. This

amendment would provide that ability. Fundamental, practical experience acquired through hands-on projects would not be compromised by this proposal. All current level 3 curriculum projects will continue to require that students develop hands-on, "return-to-service," skills.

Section 147.23

Under the proposal, this section would be modified to permit schools to use specialized personnel, who are not certificated mechanics, to teach a wider variety of aviation maintenance-related subjects. Under the current rule, specialized personnel are not permitted to teach core subjects. Essentially, such personnel are restricted to teaching theory-based science, mathematics, and drawing courses. The proposal expands the number and types of courses which may be taught by specialized personnel to include basic electricity, basic hydraulics, and similar core subjects.

The FAA recognizes that a mechanic's certificate is not necessary to effectively teach these subjects. The FAA further recognizes that the majority of AMTS are associated with other school systems, such as community colleges. These school systems often employ technical teaching personnel in such subject areas as electrical, civil, and mechanical engineering, all of which are directly related to basic aviation maintenance core subjects. Thus, under the proposal, the AMTS would be able to benefit from the availability and advanced knowledge of these teachers, even though they might not be certificated mechanics.

This amendment would provide the AMTS with a much larger pool of highly educated teachers from which to draw, which may result in an enhanced quality of education at the AMTS, while not negatively impacting upon the quality of shop and laboratory instruction. This amendment should also result in significant financial savings to the AMTS, since many specialized personnel are already on staff in associated school systems, and the AMTS would not have to expend resources recruiting qualified teachers, who are also certificated mechanics, to teach the core subjects.

Section 147.31

Under the proposal, this section would be modified to provide more educational crediting and testing flexibility to schools, which would relieve some of the administrative burdens for both the AMTS and the FAA. Further, schools would be permitted to administer tests after a student completes a unit of instruction as shown in the school's curriculum. It is further proposed that references to the term "mechanic" in this section should be replaced by the expression "aviation maintenance technician." Another amendment proposed for this section would permit a school to credit students for the general curriculum previously taken at that school when completing one rating and beginning another.

Section 147.35

Under the present rule, this section provides that each school "shall give a transcript of his grades to each student" (graduate or withdrawing student). The proposed amendment adds the words "upon request" to the beginning of paragraph (a) of this section, thereby relieving schools of the burden of issuing transcripts although unrequested and possibly undesired.

Section 147.36

Modifications proposed for this section are parallel to those proposed for § 147.23. Changes to this section, if adopted, would permit the expanded use of instructors who are not certificated mechanics to teach certain subjects in the general curriculum.

Section 147.38

The FAA proposes additional language in this section to provide schools with the flexibility to teach approved subjects above the teaching levels shown in appendix A, subject to FAA approval.

Appendix A

Under the proposal, a new paragraph would be added to facilitate the use of currently accepted educational materials and equipment, such as computers, calculators, and audio-visual equipment.

Appendix B

Under the proposal, new material would be added to this section to require higher teaching levels in some fundamental general subjects, such as mathematics and physics; to require lower teaching levels on some obsolescent subjects, such as heat treatment; and to require additional knowledge and skill levels on advanced subjects, such as solid state electronics. The primary focus of proposed changes in this section would be to increase the students' exposure to the fundamental concepts and newer skill requirements that are more relevant to the needs of today's aviation industry.

Appendix C

This proposal would amend part 147, appendix C, to include a required subject area on composite aircraft structural evaluation and repair. This additional subject area would bring the airframe structures subject requirements into conformity with current industry practices in the area of structural composite materials. As in appendix B, the proposal would delete obsolete and reduce obsolescent material in various subject areas, such as aircraft covering, finishes, and wood structures. The proposal intends to increase curriculum offerings in certain current and newly emerging areas of technology, such as composite materials and cabin atmosphere control systems. Additionally, certain teaching levels would be raised to reflect the increased technical levels required in some subject areas. For example, Item 51 in appendix C would have the teaching level increased from level 1 to level 2; Item 6 in appendix D would have the teaching level increased from level 2 to level 3.

Appendix D

The FAA proposes to add new material to this section to increase the level of technical knowledge and skill requirements in the school powerplant curriculum. This proposal is designed to increase teaching level requirements for turbine powerplant service and repair, as well as for powerplant installation and troubleshooting. Certain curriculum material that has limited application, such as woodworking, would have the required teaching levels reduced, and the requirement to teach powerplant water injection systems would be proposed for deletion. It is further proposed that the subject area of propellers would have the section relating to balancing reduced in teaching level, and new sections would be added to require teaching of the repair of metal propeller blades and the inspection and troubleshooting of unducted fans and auxiliary power units.

Paperwork Reduction Act

Information collection requirements in the proposed amendment to part 147 have previously 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 2120–0040.

Regulatory Evaluation Summary

This section summarizes a full regulatory evaluation prepared by the FAA which provides more detailed estimates of the economic consequences of this regulatory action. The full evaluation has been placed in the docket; it quantifies, to the extent

practicable, estimated costs to the private sector, consumers, Federal, state, and local governments, as well as anticipated benefits and impacts.

Executive Order 12291 dated February 17, 1981, directs Federal agencies to promulgate new regulations or modify existing regulations only if the potential benefits to society for the regulatory change outweigh the potential costs. The order also requires the preparation of a draft regulatory impact analysis of all "major" proposals except those responding to emergency situations or other narrowly defined exigencies. A "major" proposal is one that is likely to result in an annual effect on the economy of $100 million or more, a major increase in consumer costs, a significant adverse effect on competition, or is highly controversial.

The FAA has determined that this proposed rule is not "major" as defined in the executive order; therefore, a full regulatory analysis, which includes the identification and evaluation of cost reducing alternatives to the proposal, has not been prepared. Instead, the agency has prepared a more concise document termed a regulatory evaluation, which analyzes only this proposed rule without identifying alternatives. In addition to a summary of the regulatory evaluation, this section also contains an initial regulatory flexibility determination, required by the Regulatory Flexibility Act of 1980, and a trade impact assessment.

The intended rule, as proposed, amends part 147 of the Federal Aviation Regulations by modifying the portions of the rule that have been open to subjective judgments by the FAA and the Aviation Maintenance Technician Schools (AMTS) industry, and by upgrading portions that specify the skill and knowledge requirements for an aviation maintenance technician. In addition, the proposal will establish a core curriculum to ensure that a person graduating from an AMTS will be better prepared to function in a technological environment.

The expected benefits from the proposed rule changes derive mostly from reduction in costs to the AMTS resulting from increased flexibility in conducting their business and decreased administrative burdens. An unquantified benefit will be the higher quality graduates the AMTS are expected to produce due to the regulatory changes. These graduates will be better prepared to participate in the extensive on-the-job training programs for new mechanics at the major airlines or to work immediately at smaller operations. The costs of the proposal, if adopted, would fall on the AMTS due to changes in the curriculum and the increased costs associated with these mandated changes.

The costs and benefits of the proposed regulations are estimated for the 10 year period 1990–1999. All figures are in 1989 dollars. Since the AMTS industry is growing and expected to continue to grow over the next 10 years, this growth is reflected in the projected stream of costs and benefits. Using a 10 percent discount rate, the discounted costs over the 10 year period are estimated to be $2.88 million. The average annual cost is $288 thousand. This cost is associated with one-time capital expenditures for schools to meet the new turbine engine, navigation and communication equipment, and electronic equipment curriculum requirements.

The benefits calculated are in the form of reductions in operating and capital costs. Total discounted benefits over the 10 year period are estimated to be $17.97 million. The average annual benefit is $1.80 million. The major area of benefits is in the expansion of the use of instructors who are not certificated mechanics to teach additional material in the curriculum. Another important benefit is the introduction of more flexibility for schools to utilize better existing classroom and laboratory areas.

From a traditional analysis of costs and benefits, the present value benefits of the proposed regulation exceed the present value costs for the 10-year period 1990–1999 by over 6 to 1. This is due to the fact that incremental costs of the proposal are one-time capital costs, while the benefits are largely savings in operating costs that occur on an ongoing basis through the 10 year period of analysis. First year undiscounted benefits and costs are both $2.33 million; however, in subsequent years, benefits continue to increase while costs significantly decrease from 1990 to 1991, and remain constant thereafter.

International Trade Impact Analysis

This proposed regulation will have little or no impact on trade opportunities for both American firms doing business overseas and foreign firms doing business in the United States. The AMTS regulated by part 147 are in the United States. Their product is a service, education, not a commodity traded between the United States and foreign countries. The AMTS does attract foreign students for study. This is due to the generally accepted lead the United States has in aviation technology. The proposed changes to the curriculum in American AMTS may be emulated in AMTS abroad. These changes in curriculum, however, should have little or no impact on foreign trade. Furthermore, the discounted annual costs and benefits involved, $288 thousand and $1.80 million, respectively, are of little consequence when focusing on international trade issues.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by Government regulations. The review was conducted in accordance with the requirements of the RFA (Pub. L. 96–354, 94 Stat. 1164 (September 19, 1980); Chapter 6 of the Administrative Procedures Act (5 U.S.C. et seq.). The purpose of this review is to identify rules that have a "significant economic impact on a substantial number of small entities" so that the agency can determine whether such rules should be continued without change or should be amended or rescinded, consistent with the stated objectives of applicable statutes.

Part 147 directly impacts AMTS, students, and the FAA. Small entities subject to the RFA are of three types: Small businesses, small not-for-profit organizations, and small government jurisdictions. The FAA has developed guidelines for identifying small entities and assessing economic impact. This report examines classes of small entities whose activities are potentially impacted by part 147 regulations.

In FAA Order 2100.14, the FAA has identified Standard Industrial Classification (SIC) codes for selected aviation-related entity types and established its own size thresholds for these types. These entity types are typically affected by FAA regulations and include aircraft parts manufacturers, aircraft operators, and airports. For those entity types not specifically identified in FAA Order 2100.14, the Small Business Administration's guidelines in 13 CFR are used for size thresholds, but the cost impact threshold is the lowest value given in FAA Order 2100.14 for any SIC.

The AMTS industry is specifically identified in FAA Order 2100.14A and has four digit SIC Code 8299. The size threshold for the AMTS is 150 employees. A substantial number of small entities is defined as any number exceeding one-third of the total of such entities, but not less than 11.

Economic impact on a small entity is measured by those costs that must be incurred, in excess of normal business expenses, solely to satisfy the regulation. Under FAA Order 2100.14A, the lowest cost threshold for the AMTS

entity is $22,400 in 1983 dollars, or, applying the GNP Price Deflator, $27,143 in 1989 dollars.

Under the above definition, it is immediately apparent that there is no significant impact on small businesses since costs to these businesses will decrease due to the proposed changes in part 147. The primary economic impact of the proposed changes to part 147 is a reduction in costs due to removal of obsolete regulatory burdens. The AMTS will in general have more flexibility in running their programs, thus reducing operating and administrative costs. There are some increases in capital costs due to new requirements, but they will be more than offset by the decrease in operating, administrative, and capital cost items due to other proposed provision changes.

The FAA estimates that first-year cost increases due to the proposed regulation will be $2.33 million. The FAA also estimates that the cost reductions due to the regulatory changes will also be $2.33 million in the first year. In the years to follow, cost savings will be greater than cost increases. The present value (10 percent discount rate) cost for the 10 year period is $288 thousand per year, while the present value cost saving (benefits in the regulatory analysis) is $1.80 million per year. The net effect is a cost decrease of $1.50 million per year over the 10 year period of analysis. If we subtract out the reductions in cost the FAA will experience, there is a net cost decrease to the AMTS industry of $1.47 million per year over the 10 year period in present value terms.

The FAA does not have a size distribution of the AMTS industry. The FAA would welcome from the public any information on this topic. The FAA can, however, estimate an average cost savings per AMTS. Over the 10 year period, 1990–1999, there will be an average of 207 AMTS operating per year. This is based on an additional 10 schools being approved each year over the 1989 base level of 152 AMTS. Dividing the average annual net cost decrease by 207 yields a cost savings of approximately $7,100 per year per AMTS.

The FAA has determined that the requirements imposed by the proposed changes to part 147 relax the regulatory burdens on the AMTS; consequently costs should decrease. Small entities as defined by the RFA are not significantly impacted. Therefore, the FAA in its initial regulatory flexibility determination finds that the proposed regulatory changes do not have a significant economic impact on a substantial number of small entities.

Federalism Implications

The regulations proposed herein would not have substantial direct implications 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.

Conclusion

For the reasons discussed in the preamble, and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that this proposed regulation is not major under Executive Order 12291. In addition, the FAA certifies that this proposal, if adopted, will not have a significant economic impact, positive or negative, on a substantial number of small entities identified under the criteria of the Regulatory Flexibility Act. This proposal is considered significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). An initial regulatory evaluation of the proposal, including a Regulatory Flexibility Determination and Trade Impact Analysis, has been placed in the docket. A copy may be obtained by contacting the person identified under "FOR FURTHER INFORMATION CONTACT."

List of Subjects in 14 CFR Part 147

Aviation safety, Aviation maintenance technician schools, Administrative and curriculum requirements.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend part 147 of the Federal Aviation Regulations (14 CFR part 147) to read as follows:

PART 147—AVIATION MAINTENANCE TECHNICIAN SCHOOLS

1. The authority citation for part 147 is revised to read as follows:

Authority: Secs. 313(a), 314, 601 and 607, 72 Stat. 752; 49 U.S.C. App. 1354(a), 1355, 1421, and 1427.

2. Section 147.5 is amended by revising paragraphs (a)(2) and (a)(3) to read as follows:

§ 147.5 Application and issue.

(a) * * *

(2) A list of the facilities and materials to be used;

(3) A list of its instructors, including the kind of certificate and ratings held and the certificate numbers; and

* * * * *

3. Section 147.15 is amended by revising paragraphs (a), (b), (c), (d), (f) introductory text, (g), and (h) to read as follows:

§ 147.15 Space requirements.

* * * * *

(a) An enclosed classroom suitable for teaching theory classes.

(b) Suitable facilities, either central or located in training areas, arranged to assure proper separation from the working space, for parts, tools, materials, and similar articles.

(c) Suitable area for application of finishing materials, including paint spraying.

(d) Suitable area equipped with washtank and degreasing equipment with air pressure or other adequate cleaning equipment.

* * * * *

(f) Suitable area with adequate equipment, including benches, tables, and test equipment, to disassemble, service, and inspect—

* * * * *

(g) Suitable space with adequate equipment, including tables, benches, stands, and jacks, for disassembling, inspecting, and rigging aircraft.

(h) Suitable space with adequate equipment for disassembling, inspecting, assembling, troubleshooting, and timing engines.

4. Section 147.17 is amended by revising paragraph (a)(2) to read as follows:

§ 147.17 Instructional equipment requirements.

(a) * * *

(2) At least one aircraft of a type currently certificated by FAA for private or commercial operation, with powerplant, propeller, instruments, navigation and communications equipment, landing lights, and other equipment and accessories on which a maintenance technician might be required to work and with which he should be familiar.

* * * * *

5. Section 147.19 is revised to read as follows:

§ 147.19 Materials, special tools, and shop equipment requirements.

An applicant for an aviation maintenance technician school certificate and rating, or for an additional rating, must have an

adequate supply of material, special tools, and such of the shop equipment as are appropriate to the approved curriculum of the school and are used in constructing and maintaining aircraft, to assure that each student will be properly instructed. The special tools and shop equipment must be in satisfactory working condition for the purpose for which they are to be used.

6. Section 147.21 is amended by revising paragraph (b) introductory text, paragraphs (c) and (d)(3), and by removing paragraph (e) to read as follows:

§ 147.21 General curriculum requirements.

* * * * *

(b) The curriculum must offer at least the following number of hours of instruction for the rating shown, and the instruction unit hour shall not be less than 50 minutes in length—

* * * * *

(c) The curriculum must cover the subjects and items prescribed in appendixes B, C, or D, as applicable. Each item must be taught to at least the indicated level of proficiency, as defined in appendix A.

(d) * * *

(3) A list of the minimum required school tests to be given.

7. Section 147.23 is revised to read as follows:

§ 147.23 Instructor requirements.

An applicant for an aviation maintenance technician school certificate and rating, or for an additional rating, must provide the number of instructors holding appropriate mechanic certificates and ratings that the Administrator determines necessary to provide adequate instruction and supervision of the students, including at least one such instructor for each 25 students in each shop class. However, the applicant may provide specialized instructors, who are not certificated mechanics, to teach mathematics, physics, basic electricity, basic hydraulics, drawing, and similar subjects. The applicant is required to maintain a list of names and qualifications of specialized instructors, and upon request, provide a copy of the list to the FAA.

8. Section 147.31 is amended by revising paragraphs (b), (c)(1)(iv), (c)(3), and (e) and adding paragraph (c)(4) to read as follows:

§ 147.31 Attendance and enrollment, tests, and credit for prior instruction or experience.

* * * * *

(b) Each school shall give an appropriate test to each student who completes a unit of instruction as shown in that school's approved curriculum.

(c) * * *

(1) * * *

(iv) A certificated aviation maintenance technician school.

* * * * *

(3) A school may credit a student with previous aviation maintenance experience comparable to required curriculum subjects. It must determine the amount of credit to be allowed by documents verifying that experience, and by giving the student a test equal to the one given to students who complete the comparable required curriculum subject at the school.

(4) A school may credit a student seeking an additional rating with previous satisfactory completion of the general portion of an AMTS curriculum.

* * * * *

(e) A school shall use an approved system for determining final course grades and for recording student attendance. The system must show hours of absence allowed and show how the missed material will be made available to the student.

9. Section 147.35 is amended by revising paragraph (a) to read as follows:

§ 147.35 Transcripts and graduation certificates.

(a) Upon request, each certificated aviation maintenance technician school shall provide a transcript of the student's grades to each student who is graduated from that school or who leaves it before being graduated. An official of the school shall authenticate the transcript. The transcript must state the curriculum in which the student was enrolled, whether the student satisfactorily completed that curriculum, and the final grades the student received.

* * * * *

10. Section 147.36 is revised to read as follows:

§ 147.36 Maintenance of instructor requirements.

Each certificated aviation maintenance technician school shall, after certification or addition of a rating, continue to provide the number of instructors holding appropriate mechanic certificates and ratings that the Administrator determines necessary to provide adequate instruction to the students, including at least one such instructor for each 25 students in each shop or laboratory class. The school may continue to provide specialized instructors who are not certificated mechanics to each mathematics, physics, drawing, basic electricity, basis hydraulics, and similar subjects.

11. Section 147.38 is amended by revising paragraph (a) to read as follows:

§ 147.38 Maintenance of curriculum requirements.

(a) Each certificated aviation maintenance technician school shall adhere to its approved curriculum. With FAA approval, curriculum subjects may be taught at levels exceeding those shown in appendix A of this part.

* * * * *

12. Appendix A is amended by revising paragraph (b) (3) (ii) and by adding a new paragraph (c) to read as follows:

Appendix A to Part 147—Curriculum Requirements

* * * * *

(b) * * *

(3) * * *

(ii) Development of sufficient manipulative skills to simulate return to service.

* * * * *

(c) Teaching materials and equipment.

The curriculum may be presented utilizing currently accepted educational materials and equipment, including, but not limited to: calculators, computers, and audio-visual equipment.

13. Appendix B is amended by revising items, 1, 3, 5, 7, 15, 16, 20, 23, 24, 25, 28, 30, and 31 to read as follows:

Appendix B to Part 147—General Curriculum Subjects

* * * * *

Teaching level	
(2)	1. Calculate and measure capacitance and inductance.
*	* * * *
(3)	3. Measure voltage, current, resistance, and continuity.
*	* * * *
(3)	5. Read and interpret aircraft electrical circuit diagrams, including solid state devices and logic functions.
*	* * * *
(2)	7. Use aircraft drawings, symbols, and system schematics.
*	* * * *
(2)	15. Perform dye penetrant, eddy current, ultrasonic, and magnetic particle inspections.
(1)	16. Perform basic heat-treating processes.
*	* * * *
(2)	20. Start, ground operate, move, service, and secure aircraft and identify typical ground operation hazards.
*	* * * *
(3)	23. Identify, remove, and treat aircraft corrosion and perform aircraft cleaning.
(3)	24. Extract roots and raise numbers to a given power.
(3)	25. Determine areas and volumes of various geometrical shapes.
*	* * * *

Teaching level	
(3)	28. Write descriptions of aircraft discrepancies and corrective actions using typical aircraft maintenance records.
* * * * *	
(2)	30. Develop and use the principles of simple machines; sound, fluid, and heat dynamics; basic aerodynamics; aircraft structures; and theory of flight.
(3)	31. Demonstrate ability to read, comprehend, and apply information contained in FAA and manufacturers' aircraft maintenance specifications, data sheets, manuals, publications, and related Federal Aviation Regulations, Airworthiness Directives, and Advisory material.
* * * * *	

14. Appendix C is amended by revising items 2, 3, 5, 8, 10, 12, 16, 21, 25, 26, 33, 36, 37, 38, 39, 48, 50, 51, and 52, and the heading for Subject D under I. to read as follows:

Appendix C to Part 147—Airframe Curriculum Subjects

* * * * *

Teaching level	
(1)	2. Identify wood defects.
(1)	3. Inspect wood structures.
* * * * *	
(1)	5. Inspect, test, and repair fabric and fiberglass.
* * * * *	
(2)	8. Apply finishing materials.
* * * * *	
D. Sheet Metal and Non-Metallic Structures	
(2)	10. Select, install, and remove special fasteners for metallic, bonded, and composite structures.
* * * * *	
(2)	12. Inspect, test, and repair fiberglass, plastics, honeycomb, composite, and laminated primary and secondary structures.
* * * * *	
(3)	16. Form, lay out, and bend sheet metal.
* * * * *	
(1)	21. Weld aluminum and stainless steel.
* * * * *	
(3)	25. Assemble aircraft components, including flight control surfaces.
(3)	26. Balance, rig, and inspect movable primary and secondary flight control surfaces.
* * * * *	
(1)	33. Inspect, check, troubleshoot, service, and repair heating, cooling, air conditioning, pressurization systems, and air cycle machines.
* * * * *	
(1)	36. Inspect, check, service, troubleshoot, and repair electronic flight instrument systems and both mechanical and electrical heading, speed, altitude, temperature, pressure, and position indicating systems to include the use of built-in test equipment.
(2)	37. Install instruments and perform a static pressure system leak test.
(1)	38. Inspect, check, and troubleshoot autopilot servos and approach coupling systems.
(1)	39. Inspect, check, and service aircraft electronic communication and navigation systems, including VHF passenger address interphones and static discharge devices, aircraft VOR, ILS, Omega, flight management computers, and GPWS.
* * * * *	
(2)	48. Repair and inspect aircraft electrical system components; crimp and splice wiring to manufacturers' specifications; and repair pins and sockets of aircraft connectors.
* * * * *	
(3)	50. Inspect, check, troubleshoot, service, and repair alternating current and direct current electrical systems and constant speed and integrated drive generators.
(2)	51. Inspect, check, and service speed and takeoff warning systems, electrical brake controls, and antiskid systems.
(3)	52. Inspect, check, troubleshoot, and service landing gear position indicating and warning systems.
* * * * *	

15. Appendix D is amended by revising items 1, 3, 6, 7, 9, 10, 18, 19, 20, 27, 32, and 35; by revising the headings for subjects H and J; under II. by adding a new item 39 under II. heading K; and by adding new subject heading L, consisting of item 40, and heading M, consisting of item 41, to read as follows:

Appendix D to Part 147—Powerplant Curriculum Subjects

* * * * *

Teaching level	
(1)	1. Inspect and repair a radial engine.
* * * * *	
(3)	3. Inspect, check, service, and repair reciprocating engines and engine installations.
* * * * *	
(3)	6. Inspect, check, service, and repair turbine engines and turbine engine installations.
(3)	7. Install, troubleshoot, and remove turbine engines.
* * * * *	
(2)	9. Troubleshoot, service, and repair electrical and mechanical fluid rate-of-flow indicating systems.
(3)	10. Inspect, check, service, troubleshoot, and repair electrical and mechanical engine temperature, pressure, and r.p.m. indicating systems.
* * * * *	
(2)	18. Inspect, service, troubleshoot, and repair reciprocating and turbine engine ignition systems and components.
(3)	19. Inspect, service, troubleshoot, and repair turbine engine electrical and pneumatic starting systems.
(1)	20. Troubleshoot and adjust turbine engine fuel metering systems and electronic engine fuel controls.
* * * * *	
H. Induction and Engine Airflow Systems	
* * * * *	
(1)	27. Inspect, check, service, troubleshoot and repair heat exchangers, superchargers, and turbine engine airflow and temperature control systems.
* * * * *	
J. Engine Exhaust and Reverser Systems	
* * * * *	
(1)	32. Repair and troubleshoot engine exhaust systems, thrust reverser systems, and related components.
* * * * *	
(1)	35. Balance propellers.
* * * * *	
(3)	39. Repair aluminum alloy propeller blades.
L. Unducted Fans	
(1)	40. Inspect and troubleshoot unducted fan systems and components.
M. Auxiliary Power Units	
(1)	41. Inspect, check, service, and troubleshoot turbine-driven auxiliary power units.

Issued in Washington, DC, on August 31, 1990.

Thomas C. Accardi,

Acting Director, Flight Standards Service.

[FR Doc. 90-21138 Filed 9-10-90; 8:45 am]

BILLING CODE 4910-13-M

federal register

Tuesday
September 11, 1990

Part IV

Department of Justice

Department of Health and Human Services

Federal Communications Commission

45 CFR Part 78

47 CFR Part 1

Denial of Federal Benefits Project Directed by the Office of National Drug Control Policy; Denial of Federal Benefits to Drug Traffickers and Drug Possessors; Notices and Proposed Rules

DEPARTMENT OF JUSTICE

Office of Justice Programs

Denial of Federal Benefits Program

AGENCY: Office of Justice Programs, Department of Justice.

ACTION: Notice.

SUMMARY: This Notice provides general guidance on the operation of the Denial of Federal Benefits Program pursuant to section 5301 of the Anti-Drug Abuse Act of 1988 (Pub. L. 100–690).

DATES: September 11, 1990.

ADDRESSES: Denial of Federal Benefits Project, 633 Indiana Avenue NW., Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: Michael J. Dalich, Denial of Federal Benefits Project. Phone (202) 307–0630. (This telephone number is not toll free.)

SUPPLEMENTARY INFORMATION: Public Law 100–690, the Anti-Drug Abuse Act of 1988, which became effective November 18, 1988, includes new provisions regarding the denial of Federal benefits. Section 5301 of this law provides an option to sentencing judges not previously available: To deny all or selected benefits available from the Federal Government to those convicted of drug trafficking or possession. The legislation exempt some benefits, such as earned veterans and social security benefits, from this program. The law also provides for restoration of benefits to persons who successfully complete drug rehabilitation programs.

President Bush provided an implementation plan to the Congress on August 30, 1989, which stated that the provisions of this law would apply to convictions occurring on or after September 1, 1989.

Sentencing guidelines for the Federal courts were amended on November 30, 1989 to include the denial of Federal benefits as an option available to sentencing judges for persons convicted in Federal court.

On January 26, 1990 all State supreme courts (or other top State appellate courts if otherwise named) and State court administrators were advised of the program by a letter from the Assistant Attorney General, Office of Justice Programs, Department of Justice.

The General Services Administration has modified the "Lists of Parties Excluded from Federal Procurement and Nonprocurement Programs" (commonly known as the Debarment List) to include persons and corporations denied Federal benefits under this law.

The Justice Department, Office of Justice Programs, has set up a clearinghouse to receive notice from State courts and Federal courts of sentences including denial of Federal benefits and convictions for third and subsequent drug trafficking offenses, and to transmit such information to GSA for inclusion in the Debarment List.

This Notice provides Guidelines and the necessary forms to implement this program.

Denial of Federal Benefits for Certain Drug Offenders

1. Purpose

The purpose of this Guideline is to provide information to supplement the President's implementation plan of August 30, 1989, on the Denial of Federal Benefits Program.

2. Scope

This Guideline is of interest to all persons involved in any aspect of the Denial of Federal Benefits Program.

3. Authority

Section 5301 of the Anti-Drug Abuse Act of 1988 (Pub. L. 100–690), (21 U.S.C. 853a).

4. Policy

Administration and Enforcement of the Act.

a. The administration and enforcement of the Denial of Federal Benefits to Drug Traffickers and Possessors provisions of Public Law 100–690 subtitle G, section 5301, is subject to the general supervision and direction of the Attorney General, as assigned by the President. The Attorney General has assigned these duties to the Assistant Attorney General for the Office of Justice Programs (OJP).

b. Copies of the statutory provision, guidelines, and forms prepared to implement the statute, and information concerning the foregoing, may be obtained upon request without charge from the Denial of Federal Benefits Project (DFBP), Office of Justice Programs (OJP), Department of Justice, 633 Indiana Avenue NW., Washington, DC 20531, phone (202) 307–0630.

c. The Comptroller, Office of Justice Programs, is authorized to prescribe such forms and instructions in addition to, or in lieu of, those specified in this Guideline as may be necessary to carry out the purposes of this program.

5. Definitions

a. *Federal benefit* means (1) the issuance of any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States, and (2) does not include any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility. Appendix 1 contains a partial list of benefits covered.

b. *Veterans benefit* means all benefits provided to veterans, their families, or survivors by virtue of the service of a veteran in the Armed Forces of the United States.

c. *Controlled substance* means a drug or other substance as defined in the Controlled Substances Act, 21 U.S.C. 801, *et seq.*, particularly in 21 U.S.C. 802(6), listed in schedules I through V of the Controlled Substances Act in 21 U.S.C. 812, or a controlled substance analog as provided in 21 U.S.C. 813.

d. *Trafficking offense* means any offense that includes manufacturing, distributing, importing, dispensing, cultivating, or creating a controlled or counterfeit substance; or possession with intent to do any of the above; or conspiracy to commit any of the above offenses.

e. *Deemed to be rehabilitated* and *long-term treatment program* for purposes of carrying out the provisions of section 5301 of the Anti-Drug Abuse Act of 1988 are defined pursuant to rules established by the Secretary of the Department of Health and Human Services in part 78 of title 45 of the Code of Federal Regulations.

f. The definitions of "has otherwise been rehabilitated" and "supervised drug rehabilitation" that follow are nonbinding and are shown here merely for informational purposes so that the courts may take judicial notice thereof.

1. *Has otherwise been rehabilitated* for purposes of carrying out the provisions of section 5301(c)(B) of the Anti-Drug Abuse Act of 1988, 21 U.S.C. 853a(c)(B), means that an individual has abstained from the illegal use of a controlled substance for a period of at least 180 days, provided that such abstinence is documented by the results of periodic urine drug testing conducted during that period; and provided further that such drug testing is conducted using an immunoassay test approved by the Food and Drug Administration for commercial distribution or, in the case of a State offense, either using an immunoassay test approved by the Food and Drug Administration for commercial distribution or pursuant to standards approved by the State.

2. *Supervised drug rehabilitation* is a program supervised and/or maintained by a State, local, or private organization licensed to conduct or supervise rehabilitation services that incorporates a system for regular monitoring through

drug testing and reporting on the progress of individual treatment subjects, and that provides written reports to the appropriate governmental authority at regular intervals during the course of treatment and at the completion or termination of treatment.

g. *State* means any State, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and the Canal Zone (21 U.S.C. 802(26)).

6. Denial of Federal Benefits to Drug Traffickers

Any individual who is convicted of any State or Federal offense consisting of the distribution of a controlled substance (as such term is defined for purposes of the Controlled Substances Act. (21 U.S.C. 801 *et seq.*)) shall:

a. At the discretion of the court, upon the first conviction for such an offense, be ineligible for any or all Federal benefits for up to 5 years after such conviction;

b. At the discretion of the court, upon a second conviction for such an offense, be ineligible for any or all Federal benefits for up to 10 years after such conviction; and

c. Upon a third or subsequent conviction for such an offense, be premanently ineligible for all Federal benefits. (This provision is mandatory).

7. Exclusions for Denial of Benefits to Drug Traffickers

The benefits that are denied under section 5301 shall not include benefits relating to long-term drug treatment programs for addiction for any person who, if there is a reasonable body of evidence to substantiate such declaration, declares himself to be an addict and submits himself to a long-term treatment program for addiction, or is deemed to be rehabilitated pursuant to rules established by the Secretary of Health and Human Services.

8. Denial of Federal Benefits to Drug Possessors

Any individual who is convicted of any State or Federal offense involving the possession of a controlled substance (as such term is defined for purposes of the Controlled Substances Act (21 U.S.C. 801 *et seq.*)) shall:

(a) Upon the first conviction for such an offense, and at the discretion of the court:

(1) Be ineligible for any or all Federal benefits for up to one year;

(2) Be required to complete successfully an approved drug treatment program that includes periodic testing to insure that the individual remains drug-free;

(3) Be required to perform appropriate community service; or

(4) Any combination of clauses 8(a)(1), (2) or (3).

(b) Upon a second or subsequent conviction for such an offense, be ineligible for all Federal benefits for up to five years after such conviction as determined by the court. The court shall continue to have the discretion in subparagraph (a) in imposing penalties and conditions. The court may require that the completion of the conditions imposed by clause (a)(2) or (a)(3) be a requirement for the reinstatement of benefits under clause 8(a)(1).

9. Waiver and Suspension of Denial of Federal Benefits to Drug Possessors: Penalties and Conditions.

The penalties and conditions that may be imposed under paragraph 8 shall be waived in the case of a person who, if there is a reasonable body of evidence to substantiate such declaration, declares himself to be an addict and submits himself to a long-term treatment program for addiction, or is deemed to be rehabilitated pursuant to rules established by the Secretary of Health and Human Services.

10. Suspension of Period of Ineligibility

The period of ineligibility referred to in paragraphs 6 and 8 shall be suspended by the court upon a showing that the individual (1) has completed a supervised drug rehabilitation program after becoming ineligible under Section 5301; (2) has otherwise been rehabilitated; or (3) has made a good faith effort to gain admission into supervised drug rehabilitation programs, but is unable to do so because of inaccessibility or unavailability of such a program, or the inability of the individual to pay for such a program.

11. Inapplicability

a. *Government witnesses.* The penalties provided by Section 5301 shall not apply to any individual who cooperates or testifies on behalf of the government in the prosecution of a State or Federal offense or who is in a government witness protection program. The government shall identify by motion any individual who has cooperated or testified on behalf of the government in the prosecution of a State or Federal offense or who is in a government witness protection program. The government may submit the motion under seal for the safety of a person or to avoid disclosure of an ongoing investigation.

b. *Indian provision.* Nothing in this Guideline shall be construed to affect the obligation of the United States to any Indian or Indian tribe arising out of any treaty, statute, Executive Order, or the trust responsibility of the United States owing to such Indian or Indian tribe. Nothing in this subparagraph shall exempt any individual Indian from the sanctions provided for in section 5301 provided that no individual Indian shall be denied any benefit under Federal Indian programs comparable to those described in subparagraphs 5(a)(2) and (b).

12. Effective Date

The Denial of Federal Benefits provision may only be applied to convictions occurring after September 1, 1989, that arise from offenses occurring on or after November 18, 1988.

13. Judicial Action

a. In pronouncing sentence, the court shall determine the range and scope of benefits to be denied. Recommendations regarding sentencing can be made to the court with respect to this law in accordance with all other sentencing recommendation requirements.

b. The court, at its discretion, may deny some or all benefits or suspend eligibility on a benefit-specific basis. There are no restrictions on the number or range of benefits for which the court may deny eligibility, other than those benefits specifically excepted from judicial denial by Section 5301. Appendix 1 contains a partial listing of benefits that may be denied.

c. The court, at its discretion, may sentence an individual to be ineligible for all Federal benefits. Accordingly, a court could order a blanket denial of all benefits for a specified period of time not to exceed the periods described in paragraphs 6 and 8 along with any exclusions to that blanket denial as stated above. This mechanism maximizes the flexibility of the judicial branch in determining sentences in particular cases.

14. Clearinghouse

The Denial of Federal Benefits Project (DFBP), Office of Justice Programs (OJP), Department of Justice (DOJ), will be the "information clearinghouse" for information provided by all State Courts and Federal Courts regarding sentences of drug traffickers or possessors that include denial of benefits and individuals who have been convicted of a third or subsequent drug trafficking offense. The DFBP will collect this information regarding those individuals to whom benefits are to be denied and

forward this information to the General Services Administration (GSA) for inclusion in the publication, "Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs," more commonly known as the "Debarment List." Each agency should consult the Debarment List to ensure compliance with the provisions of the statute.

15. State Court and Federal Court Submission of Statements

"Statements" include, but are not limited to, copies of Judicial Orders issued by State courts and Federal courts, "Denial of Federal Benefits" forms, or "Judicial Notice of Restoration" forms. State courts and Federal courts are requested to send statements to DFBP after sentencing of an offender to denial of Federal benefits, or when the offender's criminal history indicates the individual has been convicted of a third or subsequent drug trafficking offense, or completion of action qualifying the offender for reinstatement of benefits.

16. Contents of Statements

All documents submitted to the clearinghouse should set forth the name and date of birth of the offender and any other identification available as specified on the statement Denial of Federal Benefits Form. See *Appendix 2*, OJP Form 3500/2.

a. *Denied benefits.* Document should state specific benefits to be denied, period of denial, nature of offense (trafficking or possession), existence of a previous drug conviction record, and any other conditions associated with the denial.

b. *Benefit denial reinstatement.* Any reinstatement of a denial of benefits to an individual should indicate the basis under section 5301 for the reinstatement and attach materials evidencing completion of a rehabilitation program or other activities qualifying for reinstatement.

c. The court shall then complete and forward to the Department of Justice a "Judicial Notice of Restoration" form as provided in paragraphs 15, 16, and 18.

d. *Documentation and exhibits.* The Denial of Benefits Form or an attached court order should be a certified true copy and signed by the sentencing judge.

17. Deficient Statement Filings

Documents submitted with incomplete data may be returned to the sender for additional information.

18. Supplemental Statement Filings

Documents submitted after the original filing should include all identification information included in the original statement and should indicate that the statement is an update of a previously filed denial. Supplemental information may be provided on Block 15 of the Denial of Federal Benefits for Drug Offenders Form (see *Appendix 2*, OJP Form 3500/2), or as a narrative statement.

19. Filing of a Statement

a. State Court Denial of Federal Benefits Form (OMB 1121–0148, approved pursuant to the Paperwork Reduction Act), Federal court forms, and all statements, exhibits, amendments, and other documents and papers filed under the statute or under this Guideline should be submitted to the U.S. Department of Justice, Denial of Federal Benefits Project, Office of Justice Programs, 633 Indiana Avenue, NW., Room 942, Washington, DC 20531.

b. Filing of such documents may be made in person or by mail, and they are deemed to be filed upon their receipt by the Project. Courts seeking to deny Federal benefits to convicted drug traffickers and possessors pursuant to Public Law 100–690, Section 5301, should execute a statement and address it to DFBP, Office of Justice Programs, 633 Indiana Avenue, NW., Washington, DC 20531.

20. Acknowledgement

All statements will be acknowledged in writing by the Denial of Federal Benefits Project office.

21. Privacy Act Matters

a. Consistent with the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), and DOJ regulation 28 CFR 20.30, DOJ will maintain records of all information received from State court and Federal court officials, and forward data to the General Services Administration (GSA) for inclusion in the "Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs" (Debarment List). As required, the clearinghouse will provide other Federal agencies with information on specific benefits that have been denied to an individual.

b. Upon notification from a State court or Federal court, DOJ will notify GSA, and others as required, of an individual's renewed eligibility for Federal benefits.

c. DOJ will also provide information requested by a State court or Federal court regarding current or prior Denial of Federal Benefits sanctions or restoration of benefits determinations.

22. Processing of Statements—GSA

To add an exclusionary action to the Debarment List, a letter enumerating the Denial of Federal Benefits actions will be forwarded by DFBP to GSA. The cover letter will include the following information:

a. Name and complete address of the excluded participants in alphabetical order.

b. Cause for the action, citing the appropriate Cause and Treatment Codes. The Cause and Treatment Codes, including definitions, that are now included in the Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs are contained in appendix 3.

c. The date the period of benefits suspension ends.

d. To delete an action that does not have a definite termination date, a brief letter requesting removal of the participant form the Debarment List will be forwarded by DFBP to GSA. GSA is not otherwise authorized to remove an action that does not have a definite termination date from the Debarment List without written notification from the DFBP.

e. Prior to submitting any information to GSA for inclusion in the Debarment List, DFBP will determine if GSA's publication of any of the data elements pertaining to a participant is consistent with the Privacy Act of 1974, Pub.L. 93–579, as amended, 5 U.S.C. 552a *et seq.* If there are data elements that cannot be published, such data will be deleted.

f. To insure the accuracy of entries on the Debarment List, the DFBP will review and verify the entry(ies) in each edition of the monthly debarment list publication. If an entry is found to be incorrect, GSA will be notified in writing.

g. All requests for exclusion from the Debarment List should be submitted to DFBP for forwarding to the GSA.

23. Release of Information Concerning Statements and Inquiries Concerning Application of the Act

Any inquiries concerning application of the law to any person should be addressed to the U.S. Department of Justice, Office of Justice Programs, Denial of Federal Benefits Project, 633 Indiana Avenue, NW., room 942, Washington, DC 20531, (202) 307–0630. Information will only be released in accordance with the Privacy Act, the Freedom of Information Act (5 U.S.C. 552), and DOJ regulation 28 CFR 20.30.

24. Federal Agency Action

The President's implementation procedures of August 30, 1989, direct the Federal agencies to do the following:

a. As currently required by regulation and Executive Order, each Federal agency should be responsible for checking the contents of the Debarment List for section 5301 violations prior to the award of any Federal benefit.

b. Language contained in the current certification procedure in the Federal Acquisition Regulation for procurement programs, and in the common rule established among the Federal agencies for nonprocurement programs, provides for individuals who apply for Federal grants, contracts, or benefits to certify that they have not been debarred, suspended, or otherwise declared ineligible for participation in such programs. We interpret this language to apply to denials that occur as a result of a judicial order, or for a third or subsequent conviction for a drug trafficking offense pursuant to paragraph (6).

c. In those instances where denial of an existing benefit is at issue, each Federal department or agency having administrative authority to disburse Federal benefits under this provision should determine the manner and timeframe for benefit termination. Applicable agency rules pertaining to benefit payments and other administrative matters vary considerably according to the agency and the benefit involved. For instance, termination of a Federal license may be conducted in a fashion separate from termination of other grants or contracts. Additionally, agency rules governing disbursement of educational grants vary according to the requirements of particular programs, as do regulations concerning Federally insured loans. Accordingly, each agency should ensure that benefit termination occurs in an effective and expenditious manner appropriate to the targeted benefit and reasonable under the circumstances.

25. Appeal of Denial of Benefits

When any individual denied a benefit under this program believes that the denial is based on false identification, or that the basis for the denial is no longer valid, the individual may appeal the denial to the Federal agency denying the benefit, consistent with any procedures established by that agency or by DFBP. In such event, the clearing house will make available to the denying agency documentation relating to the basis for the denial.

Clifford J. White III,

Deputy Assistant Attorney General.

APPENDIX 1. BENEFITS

September 11, 1990.

1. *Procurement Programs Which May Be Denied Under Section 5301.* All Contracts or Purchase Orders issued by Federal agencies or by others using moneys appropriated by the Federal Government. This will include all federally awarded acquisition and personal property sales contracts.

2. *Non-Procurement Programs Which May Be Denied Under Section 5301.* This is a partial list of non-procurement benefits as of September 11, 1990. This list will be modified as agencies add or delete benefits covered under this project.

Department of Agriculture

Non-License Benefits:

10.001 Agricultural Research—Basic and Applied
10.028 Animal Damage Control (only grants awarded to individuals)
10.051 Commodity Loans and Purchases
10.052 Cotton Production Stabilization
10.053 Dairy Indemnity Program
10.054 Emergency Conservation Program
10.055 Feed Grain Production Stabilization
10.058 Wheat Production Stabilization
10.059 National Wool Act Payments
10.062 Water Bank Program
10.063 Agricultural Conservation Program
10.064 Forestry Incentives Program
10.065 Rice Production Stabilization
10.066 Emergency Livestock Assistance
10.067 Grain Reserve Program
10.068 Rural Clean Water Program
10.069 Conservation Reserve Program
10.070 Colorado River Salinity Control
10.163 Market Protection and Promotion
10.206 Grants for Agricultural Research—Competitive Research Grants
10.212 Small Business Innovation Research
10.213 Competitive Research Grants for Forest and Rangeland Renewable Resources
10.404 Emergency Loans
10.405 Farm Labor Housing Loans and Grants
10.406 Farm Operating Loans
10.407 Farm Ownership Loans
10.410 Very Low and Low Income Housing Loans
10.411 Rural Housing Site Loans
10.415 Rural Rental Housing Loans
10.416 Soil and Water Loans
10.417 Very Low-Income Housing Repair Loans and Grants
10.420 Rural Self-Help Housing Technical Assistance
10.429 Guaranteed Rural Housing Loans—Demonstration Program
10.433 Rural Housing Preservation Grants
10.437 Interest Rate Reduction Program
10.438 Farm Credit System Farm Land Acquisition Program
10.450 Federal Crop Insurance
10.551 Food Stamps (research grants to individuals and cooperative agreements for research when the agreement is with an individual rather than an institution)
10.557 Special Supplemental Food Program for Women, Infants, and Children (cooperative agreements for research when the agreement is with an individual rather than an institution)
10.652 Forestry Research (research grants)
10.664 Cooperative Forestry Assistance
10.900 Great Plains Conservation
10.901 Resource Conservation and Development
10.902 Soil and Water Conservation
10.903 Soil Survey
10.904 Watershed Protection and Flood Prevention
10.905 Plant Materials for Conservation
10.910 Rural Abandoned Mine Program
10.960 Technical Agricultural Assistance
10.961 International Agricultural Research—Collaborative Program
10.962 International Training—Foreign Participant
10.963 Scientific and Technical Cooperation
10.A02 Child Nutrition Program (cooperative agreements for research when the agreement is with an individual rather than an institution)

Licenses:

10.025 Plant and Animal Diseases, Pest Control, and Animal Care (only licenses issued to individuals under the Animal Welfare and Virus-Serum-Toxin Acts)
10.162 Inspection Grading and Standardization
10.A01 Licenses under the U.S. Grain Standards Act and the Agricultural Marketing Act of 1946
10.A63 Market Protection and Promotion (individuals for grading, inspection, and cottonseed and oilseed testing)

Department of Commerce

Non-License Benefits:

11.301 Economic Development—Business Developments Assistance
11.312 Research and Evaluation Program
11.408 Fishermen's Contingency Fund
11.409 Fishing Vessel and Gear Damage Compensation Fund
11.417 Sea Grant Support
11.427 Fisheries Development and Utilization Research and Development Grants and Cooperative Agreements Program
11.430 Undersea Research
11.431 Climate and Atmospheric Research
11.432 Environmental Research Laboratories Joint Institutes
11.612 Advanced Technology Program
11.613 State Technology Program
11.800 Minority Business Development Centers

Licenses:

11.C01 Professional and Commercial Licenses, Permits and Leases

Department of Defense

Non-License Benefits:

12.D01 Graduate Fellowship Programs—Science and Engineering
12.D02 Health Professions Scholarship
12.D03 Defense Mapping Agency Sales Agent Program

Department of Education

Non-License Benefits:

84.002 Adult Education—State Administered Basic Grant Program (Stipends)
84.003 Bilingual Education—Fellowship Program
84.007 Supplemental Education Opportunities Grants
84.015 National Resource Centers and Fellowships Program for Language and Area or Language and International Studies
84.017 International Research and Studies
84.018 Fulbright-Hays Seminars Abroad—bilateral Projects
84.019 Fulbright-Hays Training Grants—Faculty Research Abroad
84.021 Fulbright-Hays Training Grants—Group Projects Abroad
84.022 Fulbright-Hays Training Grants—Doctoral Dissertation Research Abroad
84.032 Guaranteed Student Loans
84.033 College Work-Study Program (Student Assistance)
84.036 Library Career Training
84.037 National Defense/National Direct/Perkins Loan Cancellations
84.038 Perkins (formerly National Direct) Student Loans
84.047 Upward Bound
84.048 Vocational Education—Basic Grants to States
84.051 National Vocational Education Research
84.063 Pell Grant Program
84.069 Grants to States for State Student Incentives
84.077 Bilingual Vocational Training
84.083 Women's Educational Equity
84.094 Patricia Roberts Harris Fellowships
84.099 Bilingual Vocational Instructor Training
84.100 Bilingual Vocational Materials, Methods, and Techniques
84.117 Educational Research and Development
84.136 Legal Training for the Disadvantaged
84.141 Migrant Education—High School Equivalency Program
84.149 Migrant Education—College Assistance Migrant Program
84.164 Mathematics and Science Education (Teacher Grants)
84.170 Jacob K. Javits Fellowships
84.176 Paul Douglas Teacher Scholarships
84.185 Robert C. Byrd Honors Scholarships
84.190 Christa McAuliffe Fellowships
84.191 National Adult Education Research
84.200 Graduate Assistance in Areas of National Need (Fellowships)
84.206 Jacob K. Javits Gifted and Talented Students
84.219 Student Literacy Corps
84.226 Income Contingent Loan Program (ICL)
84.E01 Grant and Aid Programs Directly to Individuals
84.E02 National Adult Literacy Volunteer Training Program
84.E03 Grant/Aid Programs in which State and Local Education Agencies Provide Directly to Individuals
84.E04 Allen J Allender Fellowships
84.E05 Bilingual Education—Personnel Training Program

Department of Energy

Non-License Benefits:

81.036 Energy-Related Inventions
81.041 State Energy Conservation
81.047 Pre-Freshman Engineering
81.048 Priorities and Allocations for Energy Programs and Projects
81.065 Nuclear Waste Disposal Siting
81.084 Minority Honors Training and Industrial Assistance Program
81.089 Fossil Energy Research and Development
81.095 Nuclear Energy, Reactor Systems, Development, and Technology
81.096 Innovative Clean Coal Technology
81.097 Science and Engineering Research Semester
81.E18 Strategic Petroleum Reserve
81.E19 Naval Petroleum and Oil Shale Reserves
81.E20 Minority Undergraduate Training in Energy-Related Careers Program
81.E22 Liquefied Gaseous Fuels Spill Test Facility
81.E24 Health Physics Fellowship Program
81.E27 Environment, Safety and Health Oversight
81.E29 Fuels Programs
81.E30 Bonneville Power Administration
81.E32 Conservation and Renewable Energy
81.E33 Defense Programs
81.E34 Energy Information Administration
81.E35 Energy Research
81.E36 Environmental Restoration and Waste Management
81.E37 Environment, Safety and Health
81.E39 Fossil Energy
81.E40 Minority Economic Impact
81.E41 New Production Reactors
81.E43 Nuclear Energy
81.E44 Nuclear Safety
81.E45 Southeastern Power Administration
81.E46 Southwestern Power Administration
81.E48 Western Area Power Administration

Licenses:

81.003 Granting of Patent Licenses

Department of Health and Human Services

Non-License Benefits:

13.108 Health Education Assistance Loans
13.142 NIEHS Hazardous Waste Worker Health and Safety Training
13.161 Health Program for Toxic Substances and Disease Registry
13.180 Medical Treatement Effectiveness Research
13.184 Disabilities Prevention
13.186 National Research Services Awards
13.217 Family Planning—Services
13.244 Mental Health Clinical or Service Related Training Grants
13.263 Occupational Safety and Health—Training Grants
13.272 Alcohol National Research Service Awards for Research Training
13.273 Alcohol Research Programs
13.277 Drug Abuse Scientist Development Award for Clinicians—Scientist Development Awards and Research Scientist Awards
13.278 Drug Abuse National Research Service Awards for Research Training
13.281 Mental Research Scientist Development Award and Research Scientist Development Awards for Clinicians
13.361 Nursing Research
13.393 Cancer Cause and Prevention Research
13.394 Cancer Detection and Diagnosis Research
13.395 Cancer Treatment Research
13.396 Cancer Biology Research
13.399 Cancer Control
13.790 Work Incentive Program/WIN Demonstration Program
13.792 Community Services Block Grant
13.793 Community Services Block Grant—Discretionary Awards
13.821 Biophysics and Physiological Sciences
13.822 Health Careers Opportunity Program
13.837 Heart and Vascular Diseases Research
13.838 Lung Diseases Research
13.839 Blood Diseases and Resources Research
13.846 Arthritis, Musculoskeletal and Skin Diseases Research
13.847 Diabetes, Endocrinology and Metabolism Research
13.848 Digestive Diseases and Nutrition Research
13.849 Kidney Diseases, Urology and Hematology Research
13.855 Allergy, Immunology and Transplantation Research
13.856 Microbiology and Infectious Diseases Research
13.859 Pharmacological Sciences
13.862 Genetics Research
13.863 Cellular and Molecular Basis of Disease Research
13.864 Population Research
13.865 Research for Mothers and Children
13.866 Aging Research
13.867 Retinal and Choroidal Diseases Research
13.868 Anterior Segment Diseases Research
13.871 Strabismus, Amblyopia and Visual Processing
13.880 Minority Access to Research Careers
13.973 Special Loans for National Health Service Corps Members to Enter Private Practice
13.982 Mental Health Disaster Assistance and Emergency Mental Health
13.989 Senior International Followships
13.995 Adolescent Family Life-Demonstration Projects

Department of Housing and Urban Development

Non-License Benefits:

14.141 Section 106(b) Nonprofit Sponsor Assistance Program
14.179 Nehemiah Housing Opportunity Grant Program
14.218 Community Development Block Grants
14.219 Community Development Block Grants (except for public services)
14.220 Section 312 Rehabilitation Loans
14.221 Urban Development Action Grants
14.222 Urban Homesteading

14.230 Rental Housing Rehabilitation
14.H01 Neghborhood Development Demonstration Grants

Department of the Interior

Non-License Benefits:

15.222 Cooperative Inspection Agreements with States and Tribes
15.904 Historic Preservation Fund Grants-In-Aid/Acquisition or Development Assistance
15.910 National Natural Landmarks Program

Licenses:

15.101 Licenses for Commercial Outfitters
15.102 Professional and Commercial Licenses, Permits and Leases

Department of Jusitice

Non-License Benefits:

16.541 Juvenile Justice and Delinquency Prevention—Special Emphasis
16.542 National Institute of Juvenile Justice
16.560 Justice Research and Development Project Grants
16.582 Crime Victim Assistance/Discretionary Grants
16.J01 NIJ—Fellowship and Research Grants
16.J02 BJA—Anti Drug Grants

Licenses:

16.J03 Narcotics Practitioners Registration

Department of Labor

Non-License Benefits:

17.248 Employment and Training Research and Development Project Contracts and Grants (ETA)
17.250 Job Training Partnership Act
17.A01 Miner Training Instructor Approval (MSHA)
17.A02 Miner Certification and Qualification (MSHA)

Licenses:

17.202 Certification of Foreign Workers for Temporary Agricultural and Logging Employment
17.203 Labor Certification for Alien Workers
17.308 Farm Labor Contractor Registration

Department of Transportation

Non-License Benefits:

20.001 Boating Safety
20.106 Airport Improvement Program
20.215 Highway Training and Education
20.600 State and Community Highway Safety
20.800 Construction—Differential Subsidies
20.802 Title XI—Federal Ship Financing Guarantees
20.804 Operating—Differential Subsidies
20.805 Ship Sales
20.806 State Marine Schools
20.807 U.S. Merchant Marine Academy
20.808 Capital Construction Fund
20.810 Supplementary Training
20.812 Construction Reserve Fund
20.T13 Essential Air Service Program
20.T14 Merchant Mariner's Document

Licenses:

20.T01 Professional or Commercial Airmen Certificates
20.T02 Designation as Representatives of the FAA
20.T03 Aviation Operating Certificates
20.T04 Merchant Marine Licenses
20.T05 Merchant Marine Certificates of Registration
20.T06 License, Vessel activity: Fishing, Recreation
20.T07 Commercial Motor Vehicle Drivers Disqualification
20.T08 Grants for Research Fellowships granted by FHWA
20.T09 Locomotive Operator Disqualification
20.T10 Exemptions to individual carriers and shippers of hazardous materials
20.T11 Certificates for Schools and Other Air Agencies
20.T12 Air Carrier Fitness Certificates

Department of the Treasury

Licenses:

21.T01 Import Brokerage Licenses
21.T02 Alcohol, Tobacco and Firearms Licenses and Permits
21.T03 Banking Licenses

Department of Veterans Affairs

Non-License Benefits:

64.001 Medical Research Support
64.005 Grants to States for Construction of State Homes
64.018 Sharing Specialized Medical Resources
64.203 State Cemetery Grants

Administrative Conference of the United States

Non-License Benefits:

25.A01 Other Services (Research Grant Program)

Agency for International Development

Non-License Benefits:

26.A01 Participant Training Grants
26.A02 Science Advisor's Small Research Program Grants
26.A03 Intermediate Foreign Credit Institution Loan Portfolios

Appalachian Regional Commission

Non-License Benefits:

23.005 Appalachian Housing Project Planning Loan, Technical Assistance Grant and Site Development and Off-site Improvement Grant: State Appalachian Housing Programs

Commission of Fine Arts

Non-License Benefits:

91.A01 National Capital Arts and Cultural Affairs Program

Commission on the Bicentennial of the U.S. Constitution

Non-License Benefits:

90.001 Bicentennial Educational Grant Program

Licenses:

90.B01 Commercial Logo Licensing Program

Consumer Product Safety Commission

Non-License Benefits:

92.S01 Grants

Environmental Protection Agency

Non-License Benefits:

66.456 National Estuary Program
66.500 Environmental Protection—Consolidated Research
66.501 Air Pollution Control Research
66.502 Pesticides Control Research
66.504 Solid Waste Disposal Research
66.505 Water Pollution Control—Research, Development, and Demonstration
66.506 Safe Drinking Water Research and Demonstration
66.507 Toxic Substances Research
66.E01 Special Studies, Investigations, and Surveys
66.E02 Chesapeake Bay Program
66.E07 Nonpoint Source Implementation

Federal Communications Commission

Licenses:

32.F01 Television Broadcast Licenses
32.F02 Radio Broadcast Licenses
32.F03 FM and TV Booster Licenses
32.F04 FM and TV Translator Licenses (Including Low Power TV)
32.F05 Instructional Television Fixed Service Licenses
32.F06 Cable Television Relay Service Licenses
32.F07 Broadcast Auxiliary Service Licenses
32.F08 Direct Broadcast Satellite Licenses
32.F09 High Frequency (International) Broadcast Licenses
32.F10 Public Land Mobile Radio Licenses
32.F11 Cellular System Licenses
32.F12 Rural Radio Licenses
32.F13 Offshore Radio Licenses
32.F14 Point-to-Point Microwave and Local Television Radio Service Licenses
32.F15 Multipoint Distribution Service Licenses
32.F16 Digital Electronic Message Service Licenses
32.F17 International Fixed Public Radio Licenses
32.F18 Transmit and/or Receive Satellite Station Licenses
32.F19 Section 214 Certificates for Construction of Facilities
32.F20 Telephone Equipment Registrations
32.F21 Aviation Service Licenses
32.F22 Maritime Service Licenses
32.F23 Land Mobile Radio Licenses
32.F24 Private Operational Fixed Microwave Licenses
32.F25 Equipment Certifications
32.F26 Equipment Type Acceptance
32.F27 Equipment Type Approvals
32.F28 Equipment Notifications
32.F29 Radio Telephone Operator's Certificates (1st, 2nd, and 3rd Class) (including endorsements)
32.F30 General Radio Telephone Operator's Licenses (including endorsements)
32.F31 Marine Radio Operator's Permits
32.F32 Restricted Radiotelephone Operator's License
32.F33 Permits to Deliver Programs to Foreign Broadcast Stations
32.F34 Cable Landing Licenses

32.F35 Space Station Licenses
32.F36 General Mobile Radio Service Licenses
32.F37 Experimental and Developmental Radio Licenses (all services)

Federal Emergency Management Agency

Non-License Benefits:

83.516 Disaster Assistance

Federal Energy Regulatory Commission

Non-License Benefits:

28.F03 Exemption for Small Hydroelectric Projects
28.F05 Qualifying Facilities Status for Cogeneration and Small Power Production

Licenses:

28.F01 Preliminary Permit for Hydroelectric Projects
28.F02 License for Hydroelectric Projects
28.F04 Certificate of Public Convenience and Necessity Under Section 7 of the Natural Gas Act

Federal Maritime Commission

Non-License Benefits:

33.F02 Non-attorney admissions to practice

Licenses:

33.001 Ocean Freight Forwarder Licenses

Federal Mediation and Conciliation Service

Non-License Benefits:

34.F03 Grants

Harry S Truman Scholarship Foundation

Non-License Benefits:

85.001 Harry S Truman Scholarship Program

Interstate Commerce Commission

Licenses:

41.103 Certificate to operate as motor, water or rail carriers
41.104 Licenses to operate as motor, water or rail carriers
41.106 Permits to operate as motor, water or rail carriers
41.107 Certificates for household goods freight forwarders
41.108 Licenses for household goods freight forwarders
41.109 Permits for household goods freight forwarders
41.110 Certificates to property brokers
41.111 Licenses for property brokers
41.112 Permits for property brokers
41.113 Practitioner's License

National Archives and Records Administration

Non-License Benefits:

89.003 National Historical Publications and Records Grants

National Credit Union Administration

Licenses:

44.001 Credit Union Charter (License)

National Endowment for the Arts

Non-License Benefits:

45.001 Design Arts Program—Design Advancement, USA Fellowships
45.002 Dance Program—Choreographers' Fellowships, Dance/Film/Video, General Services to the Field, Special Projects
45.004 Literature Program—Assistance to Literary Magazines, Fellowships for Creative Writers, Fellowshps for Translators, Senior Fellowships for Literature, Small Press Assistance
45.005 Music Program—Collaborative Fellowships, Composers Fellowships, Fellowships for American Jazz Masters, Jazz Composition, Jazz Performance, Jazz Special Projects, Jazz Study, Music Recording, Solo Recitatists
45.006 Media Arts Program—Film/Video Production, Radio Production
45.008 Theater Program—Distinguished Theater Artist Fellowships, Fellowships for Playwrights, Fellowships for Solo Performacne Theater Artists and Mimes
45.009 Visual Arts Program—Visual Artists Fellowshps
45.012 Museum Program—Fellowships for Museum Professionals
45.014 Opera—Musical Theater Program—New American Works/Individuals as Producers, Special Projects
45.015 Folk Arts Program—National Heritage Fellowships
45.021 Promotion of the Arts—Arts Administration Fellows Program
45.023 Promotion of the Arts—Locals Program

National Endowment for the Humanities

Non-License Benefits:

45.104 Promotion of the Humanities—Humanities Projects in Media
45.113 Promotion of the Humanities—Public Humanities Projects
45.115 Promotion of the Humanities—Younger Scholars
45.116 Promotion of the Humanities—Summer Seminars for College Teachers
45.121 Promotion of the Humanities—Summer Stipends
45.122 Promotion of the Humanities—Regrants/Centers for Advanced Study
45.124 Promotion of the Humanities—Reference Materials/Access
45.125 Promotion of the Humanities—Humanities Projects in Museums and Historical Organizations
45.127 Promotion of the Humanities—Elementary and Secondary Education in the Humanities
45.132 Promotion of the Humanities—Texts/Publication Subvention
45.133 Promotion of the Humanities—Interpretive Research/Humanities, Science and Technology
45.134 Promotion of the Humanities—Regrants/Conferences
45.137 Promotion of the Humanities—Humanities Projects in Libraries and Archives
45.140 Promotion of the Humanities—Interpretive Research/Projects
45.142 Promotion of the Humanities—Fellowships for University Teachers
45.143 Promotion of the Humanities—Fellowships for College Teachers and Independent Scholars
45.145 Promotion of the Humanities—Reference Materials/Tools
45.146 Promotion of the Humanities—Texts/Editions
45.147 Promotion of the Humanities—Texts/Translations
45.148 Promotion of the Humanities—Regrants Program/International Research
45.149 Promotion of the Humanities—Office of Preservation
45.150 Promotion of the Humanities—Higher Education in the Humanities
45.151 Promotion of the Humanities—Summer Seminars for School Teachers
45.152 Promotion of the Humanities—Travel to Collections
45.153 Promotion of the Humanities—Regrants Program/Selected Areas
45.154 NEH/Reader's Digest Teacher—Scholar Program

National Science Foundation

Non-License Benefits:

47.009 Graduate Research Fellowships
47.041 Engineering Grants
47.049 Mathematical and Physical Sciences
47.050 Geosciences
47.051 Biological, Behavioral, and Social Sciences
47.053 Scientific, Technological, and International Affairs
47.066 Teacher Preparation and Enhancement
47.067 Materials Development, Research, and Informal Science Education
47.068 Studies and Program Assessment
47.069 Research Initiation and Improvement
47.070 Computer and Information Science and Engineering
47.071 Undergraduate Science, Engineering, and Mathematics Education
47.072 Young Scholars

Nuclear Regulatory Commission

Licenses:

77.N01 Nuclear Reactor Operators License
77.N02 Materials Licenses (to individuals and corporate entities)

Small Business Administration

Non-License Benefits:

59.002 Economic Injury Disaster Loans (EIDL)
59.003 Loans for Small Businesses
59.007 Management and Technical Assistance for Socially and Economically Disadvantaged Business
59.008 Physical Disaster Loans
59.011 Small Business Investment Companies (SBICs)
59.012 Small Business Loans
59.013 State and Local Development Company Loans
59.016 Bond Guarantees for Surety Companies
59.021 Handicapped Assistance Loans
59.038 Veterans Loan Program
59.041 Certified Development Company Loans

59.042 Business Loans for 8(a) Program Recipients
59.043 Woman's Business Ownership Assistance
59.044 Veterans Entrepreneurial Training Assistance

Smithsonian Institution

Non-License Benefits:

98.S01 Fellowships

Tennessee Valley Authority

Non-Licensee Benefits:

62.004 Tennessee Valley Region—Economic Development
62.005 Tennessee Valley Region—Natural Resources Development
62.006 Tennessee Valley Region—Valley Agricultural Institute
62.T01 Power Research
62.T03 Development Program

United States Information Agency

Non-Licensee Benefits:

82.001 Educational Exchange—Graduate Students
82.002 Educational Exchange—University Lecturers (Professors) and Research Scholars
82.C03 Educational Exchange—Secondary School Teachers
82.I01 Educational Exchange—Elementary School Teachers

BILLING CODE 4410-18-M

APPENDIX 2. DENIAL OF FEDERAL BENEFITS FOR DRUG OFFENDERS

OMB APPROVED: 1121-0148 EXPIRES: MARCH 1993

U.S. DEPARTMENT OF JUSTICE
OFFICE OF JUSTICE PROGRAMS
WASHINGTON, D.C. 20531

Denial of Federal Benefits for Drug Offenders

This requirement is pursuant to authority of 21 U.S.C. 853a. Courts may use this form or submit court documents. If the information requested below is included in court documents, complete only items 1-10, and submit this form as a transmittal sheet.

1 INDICATE NAME *(last, first, middle)*:

2 SEX: ☐ MALE ☐ FEMALE

3 SENTENCING DATE:

4 OTHER NAMES USED *(AKA)*:

5 STREET ADDRESS:

6 CITY

7 STATE:

8 ZIP CODE:

9 DATE OF BIRTH:

10 SOCIAL SECURITY NUMBER:

11 CASE/DOCKET NUMBER:

12 OFFENSE:
☐ DRUG TRAFFICKER ☐ DRUG POSSESSOR

13 SENTENCE BY COURT
A STATUTORY CRITERIA:

TRAFFICKER	POSSESSOR
☐ FIRST OFFENSE ____ YEAR(S) *(up to 5 years)*	☐ FIRST OFFENSE ____ YEAR(S) *(up to 1 year)*
☐ SECOND OFFENSE ____ YEAR(S) *(up to 10 years)*	☐ SECOND OFFENSE ____ YEAR(S) *(up to 5 years)*
☐ THIRD OFFENSE PERMANENTLY DENIED	☐ SUBSEQUENT OFFENSE ____ YEAR(S) *(up to 5 years)*

B OTHER CONDITIONS:

14 NAME OF SENTENCING JUDGE:

15 DURATION OF DENIAL:
A STARTING DATE _____
B ENDING DATE _____

16 BENEFITS DENIED:
☐ ALL BENEFITS ARE DENIED
☐ SELECTED BENEFIT(S) ARE DENIED AS SPECIFIED BELOW:

17 ADDITIONAL INFORMATION

18 RESCISSIONS: THE PERIOD OF INELIGIBILITY FOR FEDERAL BENEFITS WHICH WAS IMPOSED BY THE COURT IN THE ABOVE REFERENCED CASE IS HEREBY SUSPENDED FOR THE REASON THAT:
☐ DEFENDANT HAS SUCCESSFULLY COMPLETED A DRUG REHABILITATION PROGRAM
☐ OTHER *(specify)*.

19 SIGNATURE AND TITLE OF AUTHORIZED COURT OFFICIAL:

20 COURT NAME:

21 TELEPHONE *(Area Code)*:

22 STREET ADDRESS

23 CITY

24 STATE:

25 ZIP CODE:

OJP FORM 3500/2 (5-90)

APPENDIX 2 (CONT'D)

OJP Denial of Federal Benefits for Drug Offenders

INSTRUCTIONS

NOTE: If all the information requested in this form is included in court documents *submitted with this form,* complete only items 1-10 and use this form as a transmittal sheet attached to the signed court documents. This form may also be used to restore benefits and as a rescission of the denial of benefits by using item 18. This form and appropriate court documents must be forwarded to:

U.S. Department of Justice
Office of Justice Programs
Denial of Federal Benefits Project
633 Indiana Avenue, N.W.
Washington, D.C. 20531

1. The name of the offender to be denied benefits, listing last, first, and middle names.
2. Indicate sex of the offender to aid in identification.
3. Enter date on which a judge rendered sentence calling for the denial of Federal benefits.
4. Other names used by the offender (aliases).

5-
8. Last known address of the offender. (This should not be a prison or jail address.)
9. Date of birth of the offender.
10. Social Security Number of the offender.
11. Case or document identification number of the court order or other document upon which the denial of Federal benefits is based.
12. Federal or State offense of which the offender is convicted.
13. Terms of the sentence of the offender under Statute and other conditions.
14. Name of the judge sentencing the offender to denial of Federal benefits.
15. If denied, the duration of the denial of Federal benefits, including the starting date and the ending date.
16. Indicate whether under 21 U.S.C. 83a all Federal benefits are to be denied or whether selected benefits are to be denied, and specify which benefits are selected.
17. Additional Information:
    a. If known, list other identification numbers assigned to the offender by the incarcerating State or local police department or FBI.
    b. Indicate whether the offender has been convicted of prior drug offense(s). The court may submit records of prior drug convictions.
    c. Indicate whether the offender will receive drug treatment. Give the starting date and the completion date of the drug treatment.
18. Indicate if benefits have been restored, or other rescissions. State the date that eligibility for Federal benefits is restored by action of the court. (This item is to be completed only after treatment has been completed and further action is taken by the court.)
19. Signature of an official of the court. This may be the signature of the sentencing judge if no other court order of denial of benefits is signed, or, it may be signed by another court official authorized to supply information.
20. Name of the court issuing the sentence.
21. Indicate the phone number of the court issuing the sentence.

22-
25. Address of the court issuing the sentence.

Public reporting for this collection of information is estimated to average 5 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspects of this collections of information, including suggestions for reducing this burden, to the Denial of Federal Benefits Project, Office of Justice Programs, U.S. Department of Justice, 633 Indiana Ave., N.W., Washington, D.C. 20531, and to the Public Use Reports Project, 1121-0148, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

BILLING CODE 4410-18-C

Appendix 3. Cause and Treatment Codes

Parties Excluded From Procurement Programs

AA

Cause. Denial of all Federal contracts by a sentencing judge pursuant to section 5301 of the Anti-Drug Abuse Act of 1988 on the basis of a conviction(s) for a Federal or State offense relating to the distribution or possession of controlled substances.

Treatment. Listed persons shall not be issued any contract provided by an agency of the United States or by appropriated funds of the United States. Subcontracts awarded with appropriated Federal funds shall also be denied. The denial shall terminate on the date shown. Persons convicted for a third offense relating to distribution of controlled substances after the effective date of the Act shall be denied benefits permanently. Therefore, the termination date for such denials shall be listed as "permanent" (Perm.).

BB

Cause. PARTIAL denial of Federal contracts by a sentencing judge pursuant to section 5301 of the Anti-Drug Abuse Act of 1988 on the basis of a conviction(s) for a Federal or State offense relating to the distribution or possession of controlled substances.

Treatment. Listed persons shall not be issued contracts or subcontracts as specified by the sentencing judge which are provided by an agency of the United States or by appropriated funds of the United States. Contact the U.S. Department of Justice's Denial of Federal Benefits Project liaison shown under the heading "For Further Information" in the front of this issue to determine the extent to which benefits have been denied. The denial shall terminate on the date included in the listing. Persons convicted for a third offense relating to distribution of controlled substances after the effective date of the Act shall be denied benefits permanently. Therefore, the termination date for such denials shall be listed as "permanent" (Perm.)

Note. A denial of benefits under section 5301 of the Anti-Drug Abuse Act of 1988 does not include benefits relating to long-term drug treatment programs for addiction for any person who declares himself an addict, provides a reasonable body of evidence to substantiate this declaration, and submits to a long-term treatment program for addiciton, or is deemed to be rehabilitated pursuant to rules established by the Secretary of Health and Human Services. The denial of benefits may also be suspended on the basis of the person's participation or good faith effort to participate in a supervised rehabilitation program. Contact the U.S. Department of Justice's Denial of Federal Benefits Project liaison shown under the heading "For Further Information" in the front of this issue to verify any assertions that the denial of benefits does not apply, or has been waived or suspended on this basis.

Parties Excluded From Nonprocurement Programs

PP

Cause. Denial of all Federal benefits by a sentencing judge pursuant to section 5301 of the Anti-Drug Abuse Act of 1988 on the basis of a conviction(s) for a Federal or State offense relating to the distribution or possession of controlled substances.

Treatment. Listed persons shall not be issued any grant, contract, loan, professional license, commercial license, provided by an agency of the United States or by appropriated funds of the United States. The denial does not include any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility. Veterans benefits include all benefits provided to veterans, their families, or survivors by virtue of the service of a veteran in the Armed Services of the United States. The denial shall terminate on the date shown. Persons convicted for a third offense relating to distribution of controlled substances after the effective date of the Act shall be denied benefits permanently. Thereafter, the termination date for such denials shall be listed as "permanent" (Perm.).

QQ

Cause. Partial denial of Federal benefits by a sentencing judge pursuant to section 5301 of the Anti-Drug Abuse Act of 1988 on the basis of a conviction(s) for a Federal or State offense relating to the distribution or possession of controlled substances.

Treatment. Listed persons shall not be issued grants, contracts, loans, and/or professional or commercial licenses as specified by the sentencing judge which are provided by an agency of the United States or by appropriated funds of the United States. Contact the U.S. Department of Justice's Denial of Federal Benefits Project liaison shown under the heading "For Further Information" in the front of this issue. The denial does not include any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility. Veterans benefits include all benefits provided to veterans, their families, or survivors by virtue of the service of a veteran in the Armed Services of the United States. The denial shall terminate on the date shown. Persons convicted for a third offense relating to distribution of controlled substances after the effective date of the Act shall be denied benefits permanently. Therefore, the termination date for such denials shall be listed as "permanent" (Perm.).

Note. A denial of benefits under section 5301 of the Anti-Drug Abuse Act of 1988 does not include benefits relating to long-term drug treatment programs for addiction for any person who declares himself an addict, provides a reasonable body of evidence to substantiate this declaration, and submits to a long-term treatment program for addiction, or is deemed to be rehabilitated pursuant to rules established by the Secretary of Health and Human Services. The denial of benefits may also be suspended on the basis of the person's participation or good faith effort to participate in a supervised rehabilitation program. Contact the U.S. Department of Justice's Denial of Federal Benefits Project liaison shown under the heading "For Further Information" in the front of this issue to verify any assertions that the denial of benefits does not apply, or has been waived or suspended on this basis.

[FR Doc. 90-21251 Filed 9-10-90; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF JUSTICE

Bureau of Justice Assistance

Discretionary Grant Program Announcement for Denial of Federal Benefits Demonstration Project

AGENCY: Office of Justice Programs, Bureau of Justice Assistance; Justice

ACTION: Public Announcement of availability of funds under the Discretionary Grant Program of the Edward Byrne Memorial State and Local Law Enforcement Assistance program authorized under section 510(a)(3) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 U.S.C. 3760(a)(3).

SUMMARY: The Bureau of Justice Assistance is publishing this notice to announce the availability of funds under a new program initiative entitled: Denial of Federal Benefits Demonstration Project.

DATES: The deadline for receipt of applications is 5 p.m. e.s.t. on November 2, 1990.

ADDRESSES: BJA, Central Control Desk, 633 Indiana Avenue NW., Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: Michael J. Dalich, Denial of Federal Benefits Project, (202) 307-0630, 633 Indiana Avenue NW., Washington, DC 20531.

SUPPLEMENTARY INFORMATION:

I. Introduction
II. Program Description
III. Eligibility Requirements
IV. Application Requirements
V. Procedures and Criteria for Selection
VI. Submission Requirements
VII. Civil Rights Requirements

I. Introduction

This program will demonstrate the implementation and operation of a program (pursuant to section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. 853a) to deny Federal benefits to persons convicted of drug trafficking and drug possession.

Section 5301 of the the Anti-Drug Abuse Act of 1988 (21 U.S.C. 853a) (hereafter referred to as section 5301) provides that an individual convicted of state or Federal drug trafficking or possession offenses may be denied certain Federal benefits by state courts. Under a separate program, The National Center for State Courts was awarded a grant to coordinate the program with State Chief Justices and State Court Administrators. This program is to provide actual demonstrations of the implementation and operation of a program to deny Federal benefits under section 5301 in two jurisdictions.

II. Program Description

This program is intended to test and demonstrate two different approaches to the implementation and operation of a program at the local level to impose sanctions under section 5301. The program is intended to result in documentation which will assist other jurisdictions in implementation of a similar program.

Since this is a new law and there is no experience in effective utilization of this alternative sentencing technique, the actual program structure is left to the discretion of the applicant. However, applicants must:

- Be an agency of local government having a substantial impact upon the sentencing decision or a coordinating or planning agency with ability to administratively manage the program;
- Include the written agreement of the chief prosecuting attorney and the chief judge of the court to participation in the demonstration; and
- Be prepared to include a detailed written report on the experience of the program, including area of success and failure, which can be used by other jurisdictions in the implementation of this program and recommendation for legislation changes, if any, that could improve the program.

Two grants will be awarded under this program demonstrating approaches to implementation of sentences involving the denial of Federal benefits. Awards up to $100,000 for each site selected will be made for a 12 month period.

III. Eligibility Requirements

Applications are invited from public agencies having a substantial involvement in the sentencing decision, or from coordinating or planning agencies.

Applicants must demonstrate that they have the management capability to administer a Federal grant.

IV. Application Requirements

All applicants must submit a completed Application for Federal Assistance (Standard Form 424), including a program narrative, a detailed budget and budget narrative, and an evaluation plan to document the results of the program.

In accordance with Executive Order No. 12459, 28 CFR 67.510, applicants must also certify that they have not been debarred (voluntarily or involuntarily) from receipt of Federal funds. OJP Form 4061/2, which will be supplied with the application package, must be submitted with the application.

Other certifications required with the application include:

(1) *Drug-Free Workplace.* OJP Form 4601/3, Lobbying Certification and disclosure form SF LLL (if appropriate). Applications that include non-competitive contracts for the provision of specific services must include a sole source justification for any procurement in excess of $10,000.

An application kit is available, upon request, containing the required forms and additional background material on section 5301. The Application Kit may be requested by telephone from the Denial of Federal Benefits Project at (202) 307-0630.

V. Procedures and Criteria for Selection

These grants will be competitively awarded based on an evaluation of all applicants using the following criteria:

Applications will be reviewed by a panel which will make recommendations to the Director, BJA for funding. Letters will be sent to all applicants notifying them that their proposal has been selected or the reasons it was not selected. BJA will negotiate the terms of award with the selected applicants.

The following criteria will be used to select the successful applicants:

- Demonstrated ability to manage a Federal grant. (15 points)
- Documented past cooperation between the district attorney, courts, and others involved in the sentencing decision. (30 points)
- Clarity of the application. (10 points)
- Existence of specific goals and timetables documenting the imposition of sentences under section 5301. (20 points)
- A showing that the jurisdiction is demographically representative of benefit availability. (10 points)
- Potential for replication of the program elsewhere. (15 points)

VI. Submission Requirements

A completed Standard Form 424 (signed original and three copies) including the required assurances and certifications must be received by 5 p.m. e.d.t. on the date above mentioned.

Those applications sent by mail should be addressed to BJA, U.S. Department of Justice, 633 Indiana Avenue NW., Washington, DC 20531. Hand delivered applications must be taken to BJA, 633 Indiana Avenue NW., room 1042, Washington, DC 20531 between the hours of 8 a.m. and 5 p.m. (EST) except Saturdays, Sundays or Federal holidays.

Applicants will be notified in writing of receipt of their applications. Every effort will be made to review applications in a timely manner.

VII. Civil Rights Requirements

No person in any State shall on the grounds of race, color, religion, national origin or sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under or denied employment in connection with any programs or activity funded in whole or in part with funds made available under the Anti Drug-Abuse Act of 1988.

Recipients of funds under the Anti Drug-Abuse Act are also subject to the provision of title VI of the Civil Rights Act of 1964; section 504 of the Rehabilitation Act of 1974, as amended; title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; and the Department of Justice Non-Discrimination Regulations 28 CFR part 42, subparts C, D, E, and G.

Gerald (Jerry) P. Regier,

Acting Director, Bureau of Justice Assistance.

Walter W. Barbee,

Acting General Counsel.

[FR Doc. 90-21252 Filed 9-10-90; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 78

RIN 0905-AD32]

Conditions for Waiver of Denial of Federal Benefits

AGENCY: Public Health Service; Alcohol, Drug Abuse, and Mental Health Administration, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule is to amend title 45 of the Code of Federal Regulations to add a part 78 to provide definitions to assist Federal and State courts to implement section 5301 of Public Law 100-690, the Anti-Drug Abuse Act of 1988, 21 U.S.C. 853a, relating to the denial of Federal benefits to convicted drug traffickers and possessors. Among other things, this proposed rule establishes definitions by which an individual may have his or her denial of Federal benefits waived under section 5301. It is suggested that this regulation be read in conjunction with the published Department of Justice Guideline, *Denial of Federal Benefits for Certain Drug Offenders*, published elsewhere in this issue of the **Federal Register** and the Department of Justice's Denial of Federal Benefits form.

DATES: Comments on this proposed rule are invited and must be submitted by October 11, 1990.

ADDRESSES: Comments may be mailed to Dr. Joseph Autry, Associate Administrator for Policy, Alcohol, Drug Abuse, and Mental Health Administration, Room 12C06, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, or delivered to the same location between 9:00 a.m. and 5:00 p.m. on weekdays, Federal holidays excepted. Comments received may be inspected at the same location during these hours. Please address a copy of comments on information collection requirements to: Allison Herron, ADAMHA Desk Officer, Office of Information and Regulatory Affairs, Rm. 3002, New Executive Office Bldg., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Dr. Joseph Autry, (301) 443-4111.

SUPPLEMENTARY INFORMATION:

Background

Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. 853a, authorizes, and in certain instances, mandates, the denial of Federal benefits to any individual who is convicted of a Federal or State offense involving the distribution or possession of a controlled substance. For drug traffickers, the law provides that, at the discretion of the court, an individual can be declared ineligible for any or all Federal benefits for up to five years after a first conviction, and up to ten years after a second conviction. Upon a third or subsequent conviction, the law mandates that a drug trafficker be permanently ineligible for all Federal benefits.

For drug possessors, the law provides that, at the discretion of the court, upon the first conviction an individual can be (1) declared ineligible for any or all Federal benefits for up to one year; (2) required to successfully complete an approved drug treatment program which includes periodic testing; (3) required to perform appropriate community service; or (4) subjected to any combination of these sanctions. Upon a second or subsequent conviction for drug possession, the law provides for denial of all Federal benefits for up to five years and imposition of the other penalties and conditions provided for first time offenders.

Section 5301 delineates the Federal benefits which may not be denied pursuant to its provisions. For drug traffickers, deniable Federal benefits do not include benefits relating to long-term drug treatment programs for any individual who either declares himself or herself to be an addict and submits to a long-term drug treatment program or is deemed to be rehabilitated pursuant to this proposed rule. For drug traffickers and possessors, Federal benefits which may be denied do not include any retirement, welfare, Social Security, health, disability, veterans', public housing, or other similar benefit, or any other benefit for which payment or services are required for eligibility. Federal benefits which may be denied to both drug traffickers and possessors include the issuance of any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or through the appropriated funds of the United States.

For drug possessors, section 5301(b) mandates a waiver of the penalties and conditions which may be imposed under it for any individual who, if there is a reasonable body of evidence to substantiate such a declaration, declares himself or herself to be an addict and submits to a long-term treatment program for addiction, or is deemed to be rehabilitated pursuant to this proposed rule.

For both drug traffickers and possessors, section 5301(c) mandates the suspension of the period of ineligibility if the individual completes a supervised drug rehabilitation program, has otherwise been rehabilitated, or has made a good faith effort to gain admission to a supervised drug rehabilitation program, but is unable to do so because of inaccessibility or unavailability of such program, or the inability of the individual to pay for such a program.

General Analysis

Congress enacted section 5301 to promote the accountability of illicit drug users and reduce the demand for illicit drugs. Section 5301 has been implemented by the Federal and State judiciary with the assistance of the United States Department of Justice. In enacting section 5301, Congress recognized the expertise of the Department of Health and Human Services (HHS) in the area of drug abuse treatment and rehabilitation and designated HHS as the responsible agency for issuing regulations to implement the treatment and rehabilitation provisions in paragraphs (a) and (b) of section 5301. Accordingly, the Department proposes to define "long-term treatment program" and "deemed to be rehabilitated" as the terms are used in those provisions.

This rule proposes that an individual be considered to be "deemed to be rehabilitated" if such individual has abstained from the illicit use of a controlled substance for the period of at least 180 days immediately prior to the date of sentencing. Such abstinence must be documented by the results of periodic urine drug testing conducted during that period, and such drug testing must be conducted using an immunoassay test approved by the Food and Drug Administration for commercial distribution or, in the case of a State offense, either using an immunoassay test approved by the Food and Drug Administration for commercial distribution or pursuant to standards approved by the State.

The Secretary bases rehabilitation on abstinence rather than completion of a specified drug treatment program in acknowledgement of the ever-widening scope of addiction problems and the corresponding diversity of possible treatment modalities. An abstinence criterion provides for simplicity and uniformity and a required abstinence period of 180 days would provide a sound indication of a strong commitment to avoid drug abuse, and therefore a better than average prognosis.

The Secretary has further required abstinence to be documented by periodic urine drug testing because

periodic drug testing is the most reliable, efficient, and cost-effective means by which to document abstinence. It is not expected that this requirement will impose a substantial burden on individuals, since most drug treatment programs have immunoassay periodic drug testing in place as part of their treatment protocols. Drug testing may also be available for individuals on probation or parole or may otherwise be provided through the criminal justice system. The Secretary has required that for Federal offenders urine drug testing must be conducted using an FDA-approved immunoassay, but in the case of State offenders has left discretion to the States to approve other methods of drug testing, including methods utilized by State courts which are approved by the State.

The Department has determined that immunoassay drug testing is sufficient for Federal offenders since the use of immunoassay drug testing for purposes of monitoring drug abstinence is the standard of practice within drug treatment programs and the criminal justice system.

The Secretary has also used a 180-day standard in defining a "long-term treatment program" which is used in determining whether an individual's denial of Federal benefits may be waived. Use of the 180-day period will ensure consistency with the standard the Secretary has set for determining that an individual has been rehabilitated and is long enough that it improves the likelihood that the treatment program will provide enduring benefits.

Research has shown that 90 days or less in treatment has no more lasting effect than detoxifications alone, and clinical consensus is that 4 to 6 months of continuous treatment is needed to produce lasting change. Thus, the Department expects that a 180-day period of treatment would improve an individual's prognosis for successful rehabilitation.

The Department has also required that a long-term treatment program as defined in the regulations must be approved by a nationally recognized accreditation program or the State in which the program is located. The Department believes this requirement will help ensure that the program meets minimum standards in providing treatment to the drug trafficker or possessor who is addicted to drugs and enters the program in order to have his or her denial of Federal benefits waived.

Regulatory Flexibility Act and Executive Order 12291

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Secretary certifies that this rule will not have a significant economic impact on a substantial number of small entities and that therefore a regulatory flexibility analysis need not be prepared.

The Secretary has determined that this rule does not meet the criteria for a major rule under Executive Order 12291 and therefore a regulatory impact analysis is not required.

Paper Reduction Act of 1980

Section 78.2(a) of this proposed rule contains information collection requirements subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980. Comments regarding these requirements can be sent to the individual whose name appears in the address section of the preamble.

List of Subjects in 45 CFR Part 78

Drug abuse.

This proposed rule amends title 45 to add part 78. Accordingly, the Department of Health and Human Services proposes to add 45 CFR part 78 as follows:

James O. Mason,

Assistant Secretary for Health.

Approved: July 6, 1990.

Louis W. Sullivan,

Secretary.

Authority: Section 5301 of Pub. L. 100-690, the anti-Drug Abuse Act of 1988, 102 Stat. 4310, 21 U.S.C. 853a.

PART 78—CONDITIONS FOR WAIVER OF DENIAL OF FEDERAL BENEFITS

Sec.
78.1 Applicability.
78.2 Definitions.
78.3 Benefits Not Denied to Rehabilitated Offenders.

§ 78.1 Applicability.

This part is applicable to any decision to deny Federal benefits, under authority of 21 U.S.C. 853a, to an individual convicted of a Federal or State offense involving distribution or possession of a controlled substance as defined by the Controlled Substance Act, 21 U.S.C. 802.

§ 78.2 Definitions.

For the purposes of denying Federal benefits under 21 U.S.C. 853a:

(a) *Deemed* to be *Rehabilitated* means that an individual has abstained from the illicit use of a controlled substance for the period of at least 180 days immediately prior to the date of sentencing provided that such abstinence is documented by the results of periodic urine drug testing conducted during that period; and provided further that such drug testing is conducted using an immunoassay test approved by the Food and Drug Administration for commercial distribution or, in the case of a State offense, either using an immunoassay test approved by the Food and Drug Administration for commercial distribution or pursuant to standards approved by the State.

(b) *Long-term treatment program* or *long-term drug treatment program* means any drug abuse treatment program of 180 days or more where the provider has been accredited by the Joint Commission on Accreditation of Health Organizations, the Commission on Accreditation of Rehabilitation Facilities, or the Council on Accreditation of Services for Families and Children, or licensed or otherwise approved by the State to provide drug abuse treatment.

§ 78.3 Benefits not denied to rehabilitated offenders.

(a) No individual convicted of any Federal or State offense involving the distribution of controlled substances shall be denied Federal benefits relating to long-term drug treatment programs for addiction under 21 U.S.C. 853a(a)(1) if:

(1) The individual declares himself or herself to be an addict and submits to a long-term treatment program for addiction as defined by § 78.2(c), provided that in the determination of the sentencing court there is a reasonable body of evidence to substantiate the individual's declaration that such individual is an addict; or

(2) The individual is, in the determination of the sentencing court, deemed to be rehabilitated as defined by § 78.2(a).

(b) No individual convicted of any federal or State offense involving the possession of controlled substances shall be denied any Federal benefit, or otherwise subject to penalties and conditions, under 21 U.S.C. 853a(b)(1) if:

(1) The individual declares himself or herself to be an addict and submits to a long-term treatment program for addiction as defined by § 78.2(c), provided that in the determination of the sentencing court there is a reasonable body of evidence to substantiate the individual's declaration that such individual is an addict; or

(2) The individual is, in the determination of the sentencing court, deemed to be rehabilitated as defined by § 78.2(a).

[FR Doc. 90-21248 Filed 9-7-90; 8:45 am]

BILLING CODE 4160-20-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[Docket No. 90-312; FCC 90-229]

Denials of Federal Benefits

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is issuing a Notice of Proposed Rule Making to propose rule and form changes to implement the provisions of section 5301 of the Anti-Drug Abuse Act of 1988 concerning the denial of Federal benefits to persons convicted of drug related crimes. The proposed certification will require applicants for professional or commercial licenses to certify that they are not subject to a section 5301 denial of benefits. The proposed rules will require licenses to report any section 5301 denials of Federal benefits imposed during the license term.

DATES: Comments are due October 11, 1990. Reply comments are due October 26, 1990.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Martin Blumenthal, Office of General Counsel, Federal Communications Commission (202) 254-6530.

SUPPLEMENTARY INFORMATION: The collection of information contained in these proposed rules has been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act. Copies of that submission may be purchased from the Commission's copy contractor, International Transcription Services, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037. Persons wishing to comment on the information collection should contact Eyvette Flynn, Office of Management and Budget, 3235, NEOB, Washington, DC 20503, (202) 395-3785.

OMB Number: None.

Title: Amendment of part 1 of the Commission's Rules to Implement section 5301 of the Anti-Drug Abuse Act of 1988 (Notice of Proposed Rule Making in General Docket No. 90-312).

Respondents: Businesses, including small business, and individuals.

Estimated Annual Burden and Frequency of Reponse: The information collection burden will involve a certification by all applicants for professional or commercial licenses that the applicant is not subject to a denial of Federal benefits under section 5301 of the Anti-Drug Act of 1988. It will also involve reports by existing licensees that become subject to a section 5301 denial of Federal benefits during their license term.

Average annual certifications: 500,000
Average burden per certification: 0.017 hours
Average annual reports: 5
Average burden per report: 2 hours
Total average annual burden hours: 8,510

Frequency: On occasion.

Needs and Uses: The certifications and reports will enable the Commission to meet its responsibilities to the fullest extent possible under section 5301 of the Anti-Drug Abuse Act of 1988 and the Office of National Drug Control Policy plan for implementation of section 5301. This is a summary of the Commission's Notice of Proposed Rule Making, adopted June 14, 1990, FCC 90-229. The full text of this Commission Notice is available for inspection and copying during normal business hours in the FCC Docket Branch (room 230), 1919 M Street, NW, Washington, DC. The full text of this Notice may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., 2100 M Street NW., Suite 140, Washington, DC 20037, (202) 857-3800.

Summary of Notice of Proposed Rule Making

1. This Notice proposes rules to collect the information necessary to implement section 5301 of the Anti-Drug Abuse Act of 1988 with respect to professional and commercial licenses issued by the Commission. Section 5301 provides Federal and State court judges the discretion to deny Federal benefits to individuals of offenses consisting of the distribution or possession of controlled substances. Public Law 100-690, 102 Stat. 4181 (to be codified at 21 U.S.C. 853a). Federal benefits, as used in the statute, include licenses issued by the FCC. 21 U.S.C. 853a(d)(1).

2. The Office of National Drug Control Policy (ONDCP) plan for implementation of section 5301 proposes to use the General Services Administration (GSA) publication "Parties Excluded from Federal Procurement or Nonprocurement Programs" (commonly referred to as the "Debarment List") to notify agencies of those persons barred from Federal benefits under section 5301. In addition, ONDCP expects agencies to use what it refers to as a "common rule established among Federal agencies for nonprocurement programs" that requires applicants to certify as to their eligibility. The ONDCP plan also indicates that in "instances where denial of an existing benefit is at issue" each agency "will determine the manner and time frame for benefit termination."

3. No rule changes are necessary to implement use of the Debarment List in connection with applications. The application forms used by the Commission do not, however, include the certification referred to in the ONDCP plan. We therefore propose to amend part 1 of the Commission's rules by adding a new subpart P, 47 CFR 1.2001 *et seq.*, which will require applicants to certify that neither they nor any parties to the application are subject to a section 5301 bar on Federal benefits. Applications that do not contain such a certification will be dismissed. We also propose to require licensees to inform the Commission if they or any of their principals become subject to a section 5301 bar during the course of the license term.

4. The legislative history of section 5301 suggests that an applicant will not be eligible when an "individual" who is subject to the bar remains a party to the application. *See* 134 Cong. Rec. S12970, S15973, S15974 (daily ed. Oct. 14, 1988) (statements of Sen. Gramm). Thus, we propose to apply the certification and information collection requirement to all parties to applications and licensee principles, including: Officers, directors, non-limited partners, holders of 5% or more of the voting stock, and non-voting stockholders or limited partners with a similar (5% or more) interest in the applicant or licensee.

5. We propose that the term "license," as used in section 5301, should be defined in accordance with section 551(8) of the Administrative Procedure Act: "[L]icense includes the whole or part of an agency permit, certificate, approval, registration, charter, membership, statutory exemption or other form of permission." 5 U.S.C. 551(8). This definition includes all forms of Commission instruments of authority, including, for example, authorizations for the use of the radio spectrum, radio operator authorizations, equipment certifications, type acceptances or type approvals, and certificates of authority to construct communications lines under 47 U.S.C. 214. We believe that "professional" and "commercial" licenses, as used in section 5301, include any licenses that are professional in nature or that may be used for commercial purposes. Amateur radio operation is the only activity licensed by the Commission for which "professional" and "commercial" use is

prohibited. *See* 47 CFR 97.110, § 97.112. In all other instances, the Commission authorization may be used for "professional" or "commercial" purposes.[1]

6. Consistent with the portions of the ONDCO plan that contemplate the termination of existing benefits, we are proposing a rule requiring licensees to notify the Commission of any section 5301 bar imposed on the licensee or any of its principals during the license term. Commenters, however, should address whether the statute contemplates revocation of license and, if so, the appropriate procedures to achieve that end.

7. An Initial Regulatory Flexibility Analysis has been prepared under the Regulatory Flexibility Act of 1980, and a copy of this Notice of Proposed Rule Making shall be sent to the Chief Counsel for Advocacy of the Small Business Administration.

8. This action is taken pursuant to authority contained in sections 4(i), 4(j) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j) and 303(r) and section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. 823a.

List of Subjects in 47 CFR Part 1

Administrative practice and procedure, Denials of federal benefits, Drug abuse.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Rule Change

PART 1—PRACTICE AND PROCEDURE

Part 1, title 47 of the Code of Federal Regulations is proposed to be amended by adding a new subpart P to read as follows:

Subpart P—Implementation of the Anti-Drug Abuse Act of 1988

Sec.
1.2001 Purpose.
1.2002 Applicants required to submit information.
1.2003 Applications affected.
1.2004 Licensees required to submit information.

[1] Because they do not involve applications or the issuance of individual authorizations or licenses by the Commission, we do not believe that "blanket" authorizations are subject to the section 5301 bar. Although the system liences would be the subject of a section 5301 bar, under our proposal, individual users authorized by the licensee would not. *See* 47 CFR part 22. Similarly, we do not believe that a section 5301 denial of benefits would bar operations authorizations authorized without individual licenses. *See* 47 U.S.C. 307(e); 47 CFR 95.204, 94.404, 90.179(c), 90.603(b).

Subpart P—Implementation of the Anti-Drug Abuse Act of 1988

Authority: Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154; Implement 21 U.S.C. 853a.

§ 1.2001 Purpose.

To determine eligibility for professional and/or commercial licenses issued by the Commission with respect to any denials of Federal benefits imposed by Federal and/or state courts under authority granted in 21 U.S.C. 853a.

§ 1.2002 Applicants required to submit information.

(a) In order to be eligible for any new, modified, and/or renewed instrument of authorization from the Commission, including authorizations issued pursuant to sections 214, 301, 302, 303(a) 308, 310(d), 318, 319, 325(b), 351, 361(b), 362(b), 381, and 385 of the Communications Act of 1934, as amended, by whatever name that instrument may be designated, all applicants shall certify that neither the applicant nor any party to the application is subject to a denial of Federal benefits pursuant to section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. 853a. If a section 5301 certification has been incorporated in the application form being filed, the applicant need not submit a separate certification. If the applicant is unable to so certify, it shall be ineligible for the authorization for which it applied, and the application shall be dismissed.

(b) A party to the application, as used in paragraph (a) of this section shall include:

(1) If the applicant is an individual, that individual;

(2) If the applicant is a corporation or unincorporated association, all officers, directors, or persons holding 5% or more of the outstanding stock or shares (voting or non-voting) of the applicant; and

(3) If the applicant is a partnership, all non-limited partners and any limited partners holding a 5% or more interest in the partnership.

(c) The provisions of paragraphs (a) and (b) of this section are not applicable to the Amateur Radio Service, the Citizens Band Radio Service, the Remote Control Radio Service, or to users in the Public Mobile Services and the Private Land Mobile Radio Services that are not individually licensed by the Commission.

§ 1.2003 Applications affected.

The certification required by § 1.2002 of this part must be filed with the following applications as well as any other requests for authorization filed with the Commission, regardless of whether a specific form exists.

FCC 301—Application for Construction Permit for Commercial Broadcast Station;

FCC 301–A—Application for Authority to Operate a Broadcast Station by Remote Control or to Make Changes in a Remote Control Authorization;

FCC 302—Application for New Broadcast Station License;

FCC 303–S—Application for Renewal of License for Commercial and Noncommercial AM, FM or TV Broadcast Station;

FCC 307—Application for Extension of Broadcast Construction Permit or to Replace Expired Construction Permit;

FCC 308—Application for Permit to Deliver Programs to Foreign Broadcast Stations;

FCC 309—Application for Authority to Construct or Make Changes in an International or Experimental Broadcast Station;

FCC 310—Application for an International, Experimental Television, Experimental Facsimile, or a Developmental Broadcast Station License;

FCC 311—Application for Renewal of an International or Experimental Broadcast License;

FCC 313—Application for Authorization in the Auxiliary Radio Broadcast Services;

FCC 313–R—Application for Renewal of Auxiliary Broadcast License;

FCC 314—Application for Consent to Assignment of Broadcast Station Construction Permit or License;

FCC 315—Application for Consent to Transfer of Control of Corporation Holding Broadcast Station Construction Permit or License;

FCC 316—Application for Consent to Assignment of Radio Broadcast Station Construction Permit or License or Transfer of Control of Corporation Holding Radio Broadcast Station Construction Permit or License;

FCC 327—Application for Cable Television Relay Service Station Authorization;

FCC 330—Application for Authorization to Construct New or Make Changes in an Instructional Television Fixed and/or Response Station(s), or to assign or Transfer Such Stations;

FCC 330–L—Application for Instructional Television Fixed Station License;

FCC 330–R—Application for Renewal of Instructional Television Fixed Station and/or Response Station(s) and Low Power Relay Station(s) License;

FCC 340—Application for Construction Permit for Noncommercial Educational Broadcast Station;
FCC 345—Application for transfer of Control of a Corporate Licensee or Permittee, or Assignment of License or Permit, for an FM or TV Translator Station, or a Low Power Television Station;
FCC 346—Application for Authority to Construct or Make Changes in a Low Power TV, TV Translator or TV Booster Station;
FCC 347—Application for a Low Power TV, TV Translator or TV Booster Station License;
FCC 348—Application for Renewal of License for Translator or Low Power Power Television Broadcast Station;
FCC 349—Application for Authority to Construct or Make Changes in an FM Translator or FM Booster Station;
FCC 350—Application for an FM Translator or FM Booster Station License;
FCC 401—Application for New or Modified Common Carrier Radio Station Authorization Under Part 22;
FCC 402—Application for Station Authorization in the Private Operational Fixed Microwave Radio Service;
FCC 402-R—Renewal Notice and Certification in the Private Operational Fixed Microwave Radio Service;
FCC 403—Application for Radio Station License or Modification Thereof Under parts 23 or 25;
FCC 404—Application for Aircraft Radio Station License;
FCC 405—Application for Renewal of Radio Station License in Specified Services;
FCC 405-A—Application for Renewal of Radio Station License and/or Notification of Change to License Information;
FCC 405-B—Ship/Aircraft License Expiration Notice and/or Renewal Application;
FCC 406—Application for Ground Station Authorization in the Aviation Services;
FCC 407—Application for New or Modified Radio Station Construction Permit;
FCC 409—Airborne Mobile Radio Telephone License Application;
FCC 410—Registration of Canadian Radio Station Licensee and Application for Permit to Operate (Land Mobile);
FCC 442—Application for New or Modified Radio Station Authorization Under part 5 of FCC Rules—Experimental Radio Service (Other than Broadcast);
FCC 490—Application for Assignment or Transfer of Control Under part 22;
FCC 493—Application for Earth Station Authorization or
(Proposed)—Modification of Station License;.
FCC 494—Application for a New or Modified Microwave Radio Station License Under part 21;
FCC 494-A—Certification of Completion of Construction Under part 21;
FCC 503—Application for Land Radio Station License in the Maritime Services;
FCC 506—Application for Ship Radio Station License;
FCC 574—Application for Private Land Mobile and General Mobile Radio Services;
FCC 574-R—Application for Renewal of Radio Station License;
FCC 701—Application for Additional Time to Construct a Radio Station;
FCC 702—Application for Consent to Assignment of Radio Station Construction Permit or License;
FCC 703—Application for Consent to Transfer Control of Corporation Holding Station License;
FCC 704—Application for Consent to Transfer of Control of Corporation Holding Common Carrier Radio Station Construction Permit or License;
FCC 730—Application for Registration of Equipment to be Connected to the Telephone Network;
FCC 731—Application for Equipment Authorization;
FCC 753—Restricted Radiotelephone Operator Permit Application;
FCC 755—Application for Restricted Radiotelephone Operator Permit—Limited Use;
FCC 756—Application for Commercial Radio Operator License.

§ 1.2004 Licensees required to submit information.

With the exception of the services exempted in § 1.2002(c) of this part, if a licensee, permittee, or holder of any other instrument of Commission authorization, or any party thereto as defined in § 1.2002(b) of this part, is denied Federal benefits pursuant to section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. 853a, the licensee, permittee, or holder of any other instrument of Commission authorization must notify the Commission of that action within 30 days for the issuance of the judicial order imposing the section 5301 bar, and such notification must provide the following information:

(a) The identity of the individual(s) declared ineligible for Federal benefits and his or her (or their) relationship to the applicant;

(b) The court in which the individual(s) were convicted;

(c) The offense for which the individual(s) were convicted; and

(d) The sentence imposed, the date on which it was imposed, and the beginning and ending dates of the ineligibility imposed as a part of the sentence.

[FR Doc. 90-21249 Filed 9-7-90; 8:45 am]
BILLING CODE 6712-01-M

Federal Register / Vol. 55, No. 176 / Tuesday, September 11, 1990

Tuesday
September 11, 1990

Part V

Department of Agriculture

Animal and Plant Health Inspection Service

7 CFR Part 301
Citrus Canker; Final Rule

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 90-114]

RIN 0579-AA29

Citrus Canker

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are removing all regulations related to what has been called the Florida nursery strain of citrus canker. Recent scientific reports and articles indicate that the organism that causes this disease is different from *Xanthomonas campestris* pv. *citri*, the bacterium that causes citrus canker, and that the nursery strain disease should not be considered citrus canker. In addition, our experience in Florida during the past 5 years, as well as those reports and articles that address the potential for the Florida nursery strain to harm plants, indicate that the various forms of Florida nursery strain do not cause a disease dangerous to citrus or other plants or fruit.

Further, we are removing from quarantine all areas of Florida outside a portion of Manatee County where infestations caused by the Asiatic strains of *Xanthomonas campestris* pv *citri* have been detected during the past 2 years. This action, in conjunction with the removal of regulations related to the nursery strain, will relieve restrictions on the interstate movement of citrus and certain other plants, fruit, seeds, and other regulated articles from all areas of Florida except for part of Manatee County.

Designation of less than the entire State as a quarantined area is contingent upon certain inspection requirements being met, and upon Florida enforcing certain restrictions on the intrastate movement of regulated articles from the quarantined area.

This final rule also revises the regulations on the interstate movement of regulated articles from and through the quarantined area by adding some restrictions to prevent the interstate spread of citrus canker and by removing some restrictions that are no longer necessary.

EFFECTIVE DATE: September 18, 1990.

FOR FURTHER INFORMATION CONTACT: Eddie W. Elder, Chief Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, USDA, Room 661, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 436-6365.

SUPPLEMENTARY INFORMATION:

Background

Regulations to prevent the interstate spread of citrus canker are contained in 7 CFR 301.75 through 301.75-16, "Subpart - Citrus Canker." These regulations were established in 1984 after several central Florida nurseries were found to be infested with what was thought to be citrus canker caused by a previously undescribed strain of *Xanthomonas campestris* pv. *citri*.

By the end of 1984, plants infected with this new strain, which came to be called the Florida nursery strain, had been found at nine citrus nurseries in Florida. The disease was detected at nine additional nurseries in 1985, at two more in 1986, 3 more in 1987, four more in 1988, and at 29 nurseries in 1989. On three occasions the Florida nursery strain was found on young nursery trees (resets) that had been moved into citrus groves from infested nurseries.

It should be noted that the term "nursery strain" has come to be used to refer to a group of closely related organisms, "nursery strains," differing primarily in their degree of pathogenicity.

In 1986, the Asiatic form of citrus canker disease was detected in Florida for the first time since it was eradicated from the State in 1927. Since then, infestations caused by Asiatic strains have been found in two commercial groves in Manatee County and several residential areas in Manatee, Pinellas, and Sarasota Counties.

Initially, the regulations did not distinguish between the Asiatic form of citrus canker and the disease caused by the Florida nursery strain. Over time, however, both laboratory research and observations made in the field yielded data suggesting that the Florida nursery strain was different from the Asiatic strains and caused what is now known to be a much less serious citrus leaf spot disease. Based on this growing body of information, we have amended the regulations several times, to reflect the differences between the two types of disease and to ease restrictions related to the Florida nursery strain.

On March 27, 1990, we published in the **Federal Register** (55 FR 11209-11220, Docket No. 89-040) a proposed rule to again amend the citrus canker regulations. Docket 89-040 proposed to remove all regulations pertaining to what had been called the Florida nursery strain of citrus canker, and to remove from quarantine all areas of Florida outside a portion of Manatee County where infestations caused by the Asiatic strains had been detected within the past 2 years. The boundaries of the proposed quarantined area encompassed, and were at least 5 miles from, the sites of these infestations. Quarantine of less than the entire State was to be contingent upon certain inspection requirements being met, and upon the State of Florida enforcing certain restrictions on the intrastate movement of regulated articles from the quarantined area. We also proposed to place some additional restrictions on the interstate movement of regulated articles from and through the quarantined area, and to remove the requirement that regulated fruit from groves of fewer than 10 trees be restricted to "household" destinations when moved interstate.

We solicited written comments on the proposed rule for 60 days, ending May 29, 1990. We also held two public hearings on the proposed rule, one in Palmetto, Florida, on April 25, 1990, and the other in Ontario, California, on May 15, 1990. The public hearing in Florida was announced in Docket 89-040, the public hearing in California, scheduled in response to a request received during the comment period, was announced by **Federal Register** notice on May 2, 1990 (55 FR 18342, Docket No. 90-061).

We received 42 written comments by the close of the comment period. These were from citrus growers, packers, gift fruit shippers, State agricultural officials, owners of landscaping and lawn care businesses, and others affected by the regulations. A total of 32 persons spoke at the two public hearings, 22 in Florida and 10 in California.

Based on the comments, we have made several changes to the proposed rule. These changes concern: (1) The boundaries of the quarantined area, (2) the time period for inspecting groves, (3) the interstate movement of regulated articles through the quarantined area, (4) the interstate movement of regulated fruit produced within a half-mile of a property that has had an infestation of citrus canker within the previous 2 years, and (5) the intrastate movement, for disposal, of plant, tree, and grass clippings collected in the quarantined area. Except for these changes, we are adopting the proposed rule as a final rule, based on the reasons given in the proposal and in this document.

All issues raised by commenters are discussed below.

The Florida Nursery Strain

Thirteen commenters opposed the removal of restrictions related to what has been called the Florida nursery

strain of citrus canker. The commenters expressed the opinion that the moderately aggressive and aggressive forms present a threat to citrus and require further evaluation before any restrictions are removed.

Intensive surveys of citrus nurseries in Florida have turned up no sign of the aggressive isolates of the nursery strain in over 2 years. Since the aggressive form of the nursery disease would be easily detected if infections were present on nursery plants, it appears that this form of nursery disease has been eradicated. Nevertheless, and as we stated in the proposed rule, recent scientific reports and articles, as well as our experience in Florida during the past 5 years, indicate that none of the various forms of Florida nursery strain causes a disease dangerous to citrus or other plants or fruit. All outbreaks of the Florida nursery disease appear to have originated in nurseries, never in a grove or dooryard planting, the disease has never been found to infect fruit-bearing trees in groves, or mature trees of any commercial variety, and the disease, even when incited by one of the more aggressive isolates of the nursery strain, appears to be controllable with copper sprays and other currently available management techniques.

Further, research indicates that the Florida nursery strain of *Xanthomonas campestris* is sufficiently different from the Asiatic strains of citrus canker (*Xanthomonas campestris* pv. *citri*) to warrant a separate taxonomic placement. Although further evaluation may be necessary to determine the appropriate taxonomic designation, all information reviewed by the Department indicates that the disease caused by the nursery strain is not citrus canker.

Therefore, we are removing all restrictions related to the Florida nursery strain from "Subpart—Citrus Canker."

Other comments on removal of the nursery strain restrictions included four that specifically objected to the removal of a Federal prohibition in the movement of citrus plant material from Florida to other commercial citrus-producing States. Under the terms of the proposal and this final rule, citrus plant material may not be moved interstate from the area quarantined because of the Asiatic strains of citrus canker. Lifting the quarantine from the rest of the State, however, means that regulated articles, including citrus plant material, may be moved interstate without restriction under 7 FR 301.75 *et seq.* As discussed above, we have determined that the Florida nursery strain does not cause a dangerous plant disease and, therefore, does not warrant a Federal quarantine.

The Quarantined Area

Under the current regulations, the entire State of Florida is quarantined because of citrus canker, and an area comprising all of Manatee County and parts of Sarasota and Hillsborough Counties is under special restriction because of the Asiatic strains (A-strains) of citrus canker.

We proposed to remove all of Florida from quarantine except that portion of Manatee County bounded by the Gulf of Mexico and Tampa Bay, the Manatee County-Hillsborough County line east from Tampa Bay to U.S. Highway 301, U.S. Highway 301 south to Fort Hamer Road, Fort Hamer Road south to the Manatee River, Manatee River west to Interstate 75, Interstate 75 south to Oneco Road, Oneco Road west to 66th Street West, 66th Street West north to Cortez Road, Cortez Road west to Anna Maria Key, and all of Anna Maria Key and School Key, including the entire communities of Anna Maria, Holmes Beach, and Bradenton Beach. These proposed boundaries encompassed and were at least 5 miles from the site of any A-strain infestation that had occurred during the 2 years prior to the proposal.

The boundaries of the proposed quarantined area were based on: the location and extent of citrus canker infestations during the 2 years prior to the proposal, the eradication measures taken at the sites of those infestations, the distance citrus canker bacteria might naturally move from the sites of those infestations, the proximity of commercial groves and contiguous residential properties that contained host plants and trees, and the location of the nearest readily identifiable boundary lines.

Seven commenters maintained that a larger area of Florida should be quarantined until more time has elapsed without further outbreaks of citrus canker. One of these commenters wanted the entire State of Florida to remain under quarantine, three said we should maintain the current A-strain area as the quarantined area, and two stated that the boundaries of the quarantined area should be somewhere between the boundaries of the current A-strain area and the boundaries of the proposed quarantined area. They maintained that 2 years is not a sufficient amount of time without an outbreak to be certain that citrus canker has been eradicated. Suggested time frames ranged from 3 to 5 years. One of the commenters who advocated a wait of 4 to 5 years cited a reinfestation in a Manatee County grove that occurred nearly 3 years after the last infected trees in that grove had been destroyed.

The comments that 2 years may not be a long enough time for detecting citrus canker express a valid concern—under certain circumstances, i.e., when minimal eradication measures are taken in commercial groves where heavy infestations have occurred, the risk of reinfestation may remain even after 2 years have elapsed without detection of the disease. In the Manatee County grove referred to by one of the commenters, all infected trees were destroyed and all adjacent trees pruned back, or "buckhorned," following discovery of the initial infestation. These same measures had led to eradication of citrus canker within 2 years from residential areas of the county. However, they were not completely successful in the commercial grove, which experienced a recurrence of citrus canker in 5 blocks.

Upon reviewing all of the data related to the infestations in this grove, we concluded that, if the eradication measures in a commercial grove and on a residential property are the same, the threat of reinfestation is greater in the commercial grove than on the residential property. The increased risk can be attributed to the density of plantings in a commercial grove, which facilitates natural spread, and the use of harvesting and maintenance equipment, which can provide an efficient method of spreading bacteria throughout a grove. The application of copper, which is routinely sprayed in groves to control a number of plant diseases, can suppress the expression of citrus canker symptoms, delaying detection. Also, the size and spacing of trees in commercial groves make these trees more difficult to examine than the tyically smaller and less densely planted trees on residential properties.

The additional risks of reinfestation created by these factors can be neutralized by taking aggressive eradication measures. Such measures have recently been taken in the two commercial groves in Manatee County that have been infested with citrus canker. One of the groves has been destroyed entirely by uprooting and burning all the citrus trees in the grove. In the other, all infected trees, as well as most of the noninfected trees in the infested blocks and nearby trees in adjacent blocks, were destroyed. The destruction of entire areas of the grove, rather than just individual infected trees, drastically reduces the chances of reinfestation. The absence of any active infestations in the State—in groves or in residential areas, and the

aggressiveness of the eradication measures taken to date provide the basis for limiting the quarantined area and for continuing to use 2 years' freedom from the disease as a prerequisite for removing quarantine restrictions.

Twenty commenters maintained that the proposed quarantined area was too large. They put forth a number of arguments in support of this position, including: (1) That there is no biological basis for a quarantine radius as large as 5 miles, (2) that there is no reason to penalize groves where regular inspections have turned up no evidence of citrus canker, (3) that A-strain is more reluctant to spread than was once thought, and (4) that eradication efforts have reduced the threat from A-strain—all trees in infested areas have been "pushed and burned." Their various suggestions for reducing this area ranged from quarantining only those sites where an infestation had occurred, or only those sites and adjacent properties, to quarantining areas up to ¼ mile, ½ mile, or 2 miles around the infested sites. Several commenters advocated the use of natural boundaries wherever possible, such as the Manatee River and Tera Ceia Bay, or other significant physical barriers to spread, such as Highway 41 and Interstate 75.

For reasons explained above, the measures taken to eradicate citrus canker at infested sites are an important consideration in determining the boundaries of the quarantined area. All infected trees on all residential properties in the State were citrus canker occurred have been destroyed and all adjacent citrus trees have been buckhorned. The last infestation on a residential property occurred on Palmetto Point over 2 years ago, and was destroyed on June 24, 1988. One of the two commercial groves where A-strain has occurred was completely destroyed as of April 6, 1990. Destruction of infested areas in the other commercial grove was completed on May 5, 1990. Upon reviewing the eradication measures taken at previously infested sites, particularly the two commercial groves, we have concluded that the proposed quarantined area can be reduced without significantly increasing the risk that citrus canker will be spread interstate.

The boundaries of the quarantined area in this final rule are approximately 1½ to 2 miles from either of the previously infested groves. As discussed, these distances are based on the eradication measures taken, how far citrus canker bacteria might naturally move from the previously infested groves, the proximity to those sites of other commercial groves and contiguous residential properties that contain host plants and trees, and the location of the nearest readily identifiable boundary lines. Where possible, we have used natural boundaries or other significant physical barriers. Where none existed, we have used political boundaries. Where political boundaries, rather than physical barriers, are used, citrus plantings are sparse, creating minimal risk that citrus canker could spread naturally across those lines.

The quarantined area in this final rule includes that portion of Manatee County bounded by the Manatee River, beginning at Interstate 75 and extending west of Gulf and Bay Estates to Terra Ceia Bay, Terra Ceia Bay northeast to the Terra Ceia River, the Terra Ceia River north to Interstate 275, Interstate 275 east to Bishop Harbor Road, Bishop Harbor Road north and east to where it becomes Elleton Gillette and then Moccasin Wallow Road, Moccasin Wallow Road east to Interstate 75, Interstate 75 south to the Manatee River, and the following portions of Manatee County east of Interstate 75: Township 23, Range 18, Sections 21, 22, 27, 28, 33, and 34, and Township 34, Range 13, Sections 3 and 4 north 37th Street East and Lake Shore Drive.

Movement of Regulated Fruit from the Quarantined Area

We proposed to prohibit the interstate movement of regulated fruit from the quarantined area to any commercial citrus-producing area of the United States. We also proposed to prohibit the interstate movement—to any destination—of regulated fruit produced within ½ mile of any property where an infestation was found within the 2 years prior to the movement. Under certain conditions, our proposal would have allowed regulated fruit produced in groves at least ½ mile from any property on which infestation was found within the past 2 years to move interstate to noncommercial citrus-producing areas of the country under limited permit. As a condition for designating less than the entire State of Florida as a quarantined area, we proposed to require that Florida enforce restrictions on the intrastate movement of regulated articles, including fruit, that were at least as stringent as the restrictions on interstate movement (with 2 exceptions). This meant that Florida would have had to prohibit the intrastate movement of regulated articles, including fruit, except under certain conditions for packing or processing.

Thirty-one commenters said that the proposed restrictions on the movement of regulated fruit from the quarantined area were too severe and should be reduced. Several reasons were offered, including: eradication efforts in the State have reduced the threat of A-strain, A-strain is more reluctant to spread than was once thought, and regulated fruit presents a relatively low risk, compared to other regulated articles, of transmitting citrus canker.

The commenters made various recommendations:

With respect to the interstate movement of regulated fruit produced in groves located within ½ mile of the site of a property on which an infestation was found within the past 2 years, commenters suggested that we: (1) Allow the fruit to move under limited permit to noncommercial citrus-producing areas of the United States, (2) allow the fruit to move under limited permit to noncommercial citrus-producing areas of the United States on a case-by-case basis after risk assessment, (3) allow the fruit to move to the northeastern United States after treatment, (4) allow the fruit to move to the northeastern United States on a case-by-case basis after risk assessment.

With respect to the interstate movement of regulated fruit produced in groves located at least ½ mile from a property on which an infestation was found within the past 2 years, commenters suggested that we: (1) Allow the fruit to move to any destination after treatment with sodiun hypochlorite or sodium o-phenyl phenate (SOPP), (2) allow the fruit to move under limited permit to noncommercial citrus-producing areas of the United States after washing and waxing.

With respect to the intrastate movement of regulated fruit, commenters suggested that we: (1) Allow the fruit to move intrastate from any part of the quarantined area without restriction, (2) allow the fruit to move intrastate from any part of the quarantined area under State regulation, (3) allow the fruit to move intrastate from any part of the quarantined area on a case-by-case basis after risk assessment, (4) if produced in a grove located at least ½ mile from the site of an infestation within the past 2 years, allow the fruit to move intrastate without restriction, (5) if produced in a grove located at least ½ mile from the site of an infestation within the past 2 years, allow the fruit to move intrastate after treatment with sodium hypochlorite or SOPP, (6) if produced in

a grove located at least ½ mile from the site of an infestation within the past 2 years, allow the fruit to move intrastate after washing and waxing.

This final rule reduces the quarantined area from what was proposed, to an area with borders no closer than 1½ miles, and an average of 1½ to 2 miles, from sites where an infestation has occurred within the past 2 years. Beyond this area, there will be no restrictions on the interstate movement of regulated articles, including fruit. The movement of regulated articles from the new quarantined area must continue to be restricted because of the risk that they could be infected with or contaminated by citrus canker. We agree that eradication measures have reduced this risk, but not to the extent that it would be prudent to allow regulated articles, including fruit, to be moved from any part of the quarantined area to other commercial citrus-producing areas. Most scientists and regulatory officials continue to view citrus canker as a very serious disease of citrus. And, although citrus fruit does present a relatively low risk of transmitting citrus canker, the infection could be spread by infected fruit under certain circumstances. For this reason, this final rule continues to prohibit the interstate movement from the quarantined area of any regulated article, including regulated fruit, to commercial citrus-producing areas of the United States.

Also, as proposed, this final rule requires that the State of Florida prohibit the intrastate movement of regulated fruit from the quarantined area, except for processing into a product other than fresh fruit or packing, as a condition for having less than the entire State designated as a quarantined area. Regulated fruit moved intrastate from the quarantined area, except under the safeguards proposed for processing into a product other than fresh fruit and packing could transmit citrus canker to host material elsewhere in the State. As explained above, while citrus fruit may present a relatively low risk of spreading citrus canker, the seriousness of the disease makes it prudent to prohibit the movement of regulated fruit from the quarantined area into other commercial citrus-producing areas of the United States.

We have, however, reconsidered the proposed restrictions for fruit grown within ½ mile of a property where an infestation has been found within 2 years. Given the extent of destruction at the only two sites where an infestation has been found within the past 2 years, it does not appear that fruit from within ½ mile of these sites is any more likely to be infected with citrus canker than fruit from any other part of the quarantined area. Therefore, this final rule allows regulated fruit produced in any part of the quarantined area, except a grove where an infestation has occurred within the past 2 years, to be moved interstate under limited permit to noncommercial citrus-producing areas of the United States. The fruit must be treated with SOPP or sodium hypochlorite to destroy any bacteria that might be present on its surface.

Regulated fruit moved into the quarantined area for packing. We proposed that regulated fruit produced outside the quarantined area but brought into the quarantined area for packing be treated prior to interstate movement. One commenter maintained that treatment should not be required because mature fruit is not susceptible to citrus canker infection.

Regulated fruit brought into the quarantined area for packing is not required by this final rule to be segregated at the packing house from fruit produced in the quarantined area. Since fruit from outside the quarantined area could be contaminated as a result of being commingled with other fruit at the packing house, it must be treated to remove bacteria that might be on the surface of the fruit. Also, requiring treatment of all regulated fruit ensures that fruit produced in the quarantined area is not inadvertently moved interstate without treatment. Therefore, we have made no change based on this comment.

Regulated fruit moved from the quarantined area for packing. We proposed to allow regulated fruit to be moved intrastate from the quarantined area for packing or processing, but only under certain conditions necessity to prevent the spread of citrus canker. One commenter objected to the restrictions on fruit moved intrastate for packing, saying that they would drive down the price of fresh fruit grown in the quarantined area.

Because regulated fruit produced in the quarantined area is at some risk for being contaminated or infected with citrus canker, it cannot be allowed to move intrastate from the quarantined area without restriction. The necessary for restricting the movement of regulated fruit from the quarantined area has already been discussed in connection with other comments. Therefore, we have made no change based on this comment.

Regulated fruit moved interstate through the quarantined area. We proposed to add restrictions on the interstate movement of regulated articles through the quarantined area. Specifically, we proposed that the regulated articles be completely covered, or enclosed in containers or in a compartment of a vehicle, during movement through the quarantined area, that no regulated articles be added to or removed from the shipment in the quarantined area, and that the regulated articles be accompanied by a receipt or bill of lading to indicate that the regulated articles originated outside the quarantined area.

A number of commenters objected to the prohibition on unloading regulated articles from, or adding regulated articles to, a shipment of regulated articles moving through the quarantined area. They said that these restrictions should not apply to regulated fruit intended for interstate movement. They explained that it is a routine practice within the gift fruit industry to gather packed fruit from small growers across the State, including the quarantined area, and take it to a central location for sorting and shipping. Fruit produced in the quarantined area must be from a grove that has been inspected and found free of citrus canker, and must be treated with sodium hypochlorite or SOPP as a condition of interstate movement. The commenters maintained that if this fruit were added to a load of regulated fruit moving through the quarantined area, there would be little, if any, risk of cross-contamination.

We agree. Therefore, this final rule allows regulated fruit that meets the requirements for interstate movement from the quarantined area to any area of the United States except commercial citrus producing areas to be added to shipments of regulated articles moving through the guarantined area. The regulated articles may be moved interstate to any place in the United States, the regulated fruit added to the shipment in the quarantined area may be moved to any area of the United States except to commercial citrus producing areas.

Time Frame for Grove Inspections

We proposed to require that every regulated plant and tree [except indoor houseplants and regulated plants and trees at nurseries] in the quarantined area and in a surrounding area be inspected for citrus canker at least once a year, between May 1 and October 31. Several commenters stated that we should allow inspections to be conducted as late as December 31 since citrus canker may express itself in November and December.

We agree that citrus canker may be expressed in November and December. Therefore, this final rule allows the required annual inspections to be conducted between May 1 and December 31, inclusive.

Disinfection of Vehicles, Equipment, and Personnel

We proposed that all vehicles, equipment, and other articles used in providing inspection, maintenance, harvesting, or related services in any grove in the quarantined area that contains regulated trees or plants, or in providing lawn care on any premises in the quarantined area containing regulated trees or plants, be cleaned and treated with a disinfectant upon leaving the grove or premises. We also proposed that all personnel who enter a grove or premises to provide these services be treated with disinfectant upon leaving the grove or premises. Currently, similar cleaning and disinfection requirements apply only to vehicles, equipment, and personnel entering or leaving a grove of 10 or more regulated trees producing fruit for interstate movement. As we explained in our proposal, a broader application of these provisions is necessary to prevent the spread of citrus canker.

Thirty-four persons representing lawn service and landscaping businesses objected to the proposed requirements, stating that they would be too expensive and impracticable. They argued that lawn service and landscaping personnel are no more likely than any one else to spread canker, that one of the chemicals listed for treatment (Gallex) is corrosive, and that our estimated costs ($1–2 per day for materials and hand-held sprayers) are far too low. Several of the commenters suggested that vehicles, equipment, and personnel providing landscaping or lawn services on residential properties be exempt from these requirements. One of the commenters also complained that disposal of lawn wastes and tree clippings in sanitary landfills would conflict with State directives and be very expensive. Recycling was suggested.

We realize that lawn service and landscaping personnel will be inconvenienced by these requirements. However, lawn service and landscaping vehicles, equipment, and personnel are the most likely means of spread in residential areas, since they have direct contact with regulated plants and trees and move from yard to yard. The extensive spread of citrus canker on Anna Maria Island in 1986 and 1987 appears to have been largely due to the movement of landscaping and lawn services from property to property. Therefore, the requirements for cleaning and disinfecting vehicles, equipment, and personnel that provide these services must be kept in this final rule.

We believe, however, that landscaping and lawn service owners may be overestimating the impact of these provisions. Several of the commenters said that it would cost them $15–40 per residence, per day, for materials and labor, to comply with our requirements. These figures are too high, based on our expectations that cleaning and disinfection can be accomplished in a relatively short time by knocking off debris and using hand-held sprayers to apply disinfectant. To ensure that owners of these businesses understand what will be required, the Citrus Canker Project Office will conduct workshops and demonstrations. The times, dates, and locations will be published in a notice in the Federal Register and advertised locally, the first workshop/demonstration will be held during the week following publication of this final rule.

We have made changes in this final rule to address concerns about disposal of plant, tree, and grass clippings. Our proposal did not contain any provisions for disposal of these wastes. However, with certain exceptions for regulated fruit, the proposal would have prohibited the intrastate movement of regulated articles from the quarantined area. Most residential properties in the quarantined area contain citrus trees or plants, and clippings from these properties would in all likelihood contain regulated plant material. Because the quarantined area does not contain adequate disposal facilities for these waste products, the prohibition on intrastate movement of regulated articles from the quarantined area could leave landscaping and lawn service operators without any place to dispose of their clippings. Therefore, this final rule will allow grass, tree, and plant clippings to be moved intrastate from the quarantined area for disposal in a public landfill or for composting in a recycling facility if all of the following conditions are met: (1) the public landfill or recycling facility is located within the area that will continue to be inspected for citrus canker (referred to in this final rule as the survey area), (2) the clippings are completely covered during the movement from the quarantined area to the public landfill or recycling facility, and (3) the public landfill is fenced, prohibits the movement of dumped material, and covers dumped material with dirt at the end of every day that dumping occurs. Citrus canker bacteria covered with dirt are not likely to survive more than 60 days. Recycling facilities that compost plant material are also acceptable disposal sites because the high temperatures to which plant material is subjected during composting will kill citrus canker bacteria. We are limiting disposal outside the quarantined area to the survey area as an added precaution, this area will continue to be inspected for citrus canker.

As for Gallex being corrosive, we recognize that disinfectants in general have corrosive qualities. We recommend that vehicles and equipment be rinsed periodically to remove corrosive residues. Gallex 1027 antimicrobial soap, one of the disinfectants listed for personnel, is widely used in hospitals and is less harsh, for example, than alcohol or chlorine bleach solution.

Movement of Fruit from the Quarantined Area for Packing

One commenter said that when fruit from the quarantined area is packed in the same house as fruit that will move to commercial citrus-producing States, the possibility exists for mislabeling. He urged that regulatory officials be diligent and keep fruit from the quarantined area out of packing houses where this occurs.

Packing houses that handle both types of regulated fruit are required to store the two types of fruit separately, and to treat any equipment that comes in contact with quarantined area fruit before using the equipment with any other fruit. If these requirements are not met, regulated fruit from that packing house will not be eligible for interstate movement to commercial citrus-producing areas.

Labeling of Fruit Moved to Commercial Citrus-Producing States

One commenter requested that all regulated fruit that is produced outside the quarantined area and moved interstate to commercial citrus-producing areas be packed in boxes free of any markings, including inked out or covered limited permit labels. He was apparently concerned that boxes pre-printed with a limited permit would continue to be used for regulated fruit that, under the rule we proposed, could move interstate without limited permit or certificate. Regulatory officials in the receiving State would not know whether the fruit was eligible for entry into their State.

It is likely that Florida shippers will have a large stock of boxes pre-printed with limited permits when this rule becomes effective. These boxes must be ordered well ahead of the shipping

season. Prohibiting their use would prevent these businesses from shipping fruit. However, we understand the commenter's concern about inked out or covered limited permits, since a limited permit under this final rule could indicate that the fruit originated in the quarantined area. Therefore, we will issue certificates for those boxes until the stock is depleted. This will ensure that this fruit can be identified as eligible for interstate movement to commercial citrus-producing States.

State-Wide Grove and Nursery Inspections

Several commenters opposed the elimination of grove and nursery inspections outside the quarantined area. Some recommended that all groves in the State be inspected on a 4-year cycle, and that all nurseries in the State continue to be inspected every 3–4 months. Three commenters maintained that we should continue to require inspections of all groves in the State that produce regulated fruit for interstate movement to commercial citrus-producing areas.

Multiple inspections throughout the State have turned up no evidence that citrus canker exists outside the quarantined area as drawn in this final rule. As a safeguard, we are continuing to require annual inspections of all regulated plants and trees, except indoor houseplants and regulated plants and trees at nurseries, in an area surrounding the quarantined area (the survey area). In addition, all regulated plants and trees at every nursery in the survey area must be inspected at intervals of no more than 45 days. Further, at every grove in the survey area producing regulated fruit for interstate movement, an inspector must walk through the grove no more than 30 days before harvest begins and inspect every regulated plant and tree. The survey area includes all of the area beyond the quarantined area that is included in the current A-strain area: Hillsborough County south of State Highway 672 and west of State Highway 39, Sarasota County south of the Manatee County line, west of Interstate 75, and north of State Highway 72, County Road 789, and an imaginary line extending due west to the Gulf of Mexico, and all of Manatee County outside the quarantined area. We believe these inspections will ensure the prompt detection of citrus canker, and allow timely action to prevent the interstate spread of citrus canker, should the disease spread beyond the quarantined area.

Treatment of Fruit Intended for Commercial Citrus-Producing Areas

Several commenters recommended that we continue to require chemical treatment of regulated fruit destined for commercial citrus-producing areas. Regulated fruit produced in the quarantined area is not eligible for interstate movement to commercial citrus-producing areas. As explained above, we have no evidence that citrus canker exists outside the quarantined area as drawn in this final rule, and, therefore, no reason to require continued treatment of regulated fruit produced outside the quarantined area.

Definition of "Grove"

One commenter supported our defining "grove" as "any tree or stand of trees * * *," because inspection and other requirements would apply to any size grove, even a single tree. However, he said he hoped that inspection of commercial groves would not suffer as a result.

Because inspections will be required in a fairly small area of Florida under this final rule, there will be sufficient resources available to conduct the inspections.

Other

One commenter asserted that the citrus canker regulations in § 301.75 *et seq.* should be the same as the regulations for Unshu oranges, which are found at 7 CFR 319.28. These latter regulations concern the importation into the United States of Unshu oranges grown in Japan, where citrus canker is endemic.

The regulations applicable to the importation of Unshu oranges require, among other things, that the oranges be grown in canker-free export areas. The regulations do not appear to fit the circumstances in Florida, where all but a small portion of the State is free of citrus canker.

One commenter complained that, under the proposed rule, thousand of truckloads of regulated fruit moving through the quarantined area enroute to a processing facility would have to be covered with a trap. This comment apparently refers to the provision in proposed § 301.75–10(c), which states that regulated articles moved through the quarantined area for interstate movement be completely covered, or enclosed in containers or in a compartment of a vehicle, during movement through the quarantined area. In accordance with proposed § 301.75–4(d)(2), the State would be required to impose a similar requirement on regulated articles moved through the quarantined area during the course of intrastate movement. The covering requirement was intended to prevent contamination of the regulated articles being moved through the quarantined area. Upon further consideration, however, we have concluded that regulated articles move directly through the quarantined area, without being unloaded and without stopping except for traffic conditions, would be very unlikely to become contaminated. Therefore, our final rule does not require regulated articles moving interstate through the quarantined area to be covered, or enclosed in containers or in a compartment of a vehicle, if the regulated articles are moved through the quarantined area without stopping, except for refueling or for traffic conditions, such as traffic lights or stop signs.

Effective Date: Pursuant to the provisions of 5 U.S.C. 553, we find good cause for making this rule effective less than 30 days after publication in the **Federal Register**. This rule removes unnecessary restrictions from the citrus canker regulations. Because the shipping season for Florida citrus is under way, prompt implementation of this rule is necessary to provide relief to those persons adversely affected by restrictions that are no longer warranted. Implementation upon publication is not practicable because the rule requires that the State of Florida adopt and enforce certain restrictions on the intrastate movement of regulated articles. However, State officials in Florida have indicated that 7 days is sufficient time for the State to have a parallel quarantine in place. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be made effective 7 days after the day of publication in the **Federal Register**.

Executive Order 12291 and Regulatory Flexibility Act

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

based enterprises in domestic or export markets.

In accordance with 5 U.S.C. 603, we performed an Initial Regulatory Flexibility Analysis regarding the potential impact of the proposed rule on small entities. This analysis was published in the Federal Register on March 27, 1990, as part of the proposed rule. Comments on the economic impact of the proposed rule on small entities were received from growers, gift fruit shippers, and landscaping and lawn service owners who expected to be adversely affected. As explained earlier in this Supplementary Information, we have responded by making several changes to the proposal, where it was possible to do so without creating a significant risk that citrus canker would be spread interstate. The Federal Plant Pest Act and the Plant Quarantine Act authorize the Secretary of Agriculture to promulgate regulations concerning the importation or interstate movement of articles to prevent the spread of any dangerous plant disease.

Following is the final regulatory flexibility analysis, based on the provisions contained in this final rule.

General

The citrus canker regulations have had the most impact on Florida citrus growers who sell to the fresh fruit market, and on other entities concerned with producing and marketing fresh fruit. These entities represent a small part of Florida's citrus industry, since about 80 percent of the regulated fruit produced in Florida is processed, primarily for juice. Much of the remaining 20 percent is consumed within the State or is exported to foreign countries. With few exceptions, the current regulations affect only those entities involved in producing or handling regulated fruit for interstate movement. Under this final rule, which would reduce the quarantined area for citrus canker from the entire State of Florida to a small area on Florida's Gulf Coast, the number of entities subject to the regulations would be significantly decreased. In addition, State and Federal offices currently responsible for conducting inspections and monitoring compliance with the regulations over a large part of the State can concentrate their resources in a relatively small geographic area on preventing the spread of and eradicating citrus canker associated with the Asiatic strains. Federal regulations on the interstate movement of regulated articles from and through the proposed quarantined area will be removed following eradication of the Asiatic strains.

Removal of Regulations Pertaining to the Florida Nursery Strains

This final rule removes all regulations pertaining to what has been called the Florida nursery strain. As a result, all restrictions will be removed on the interstate movement of regulated articles, including plants, fruit, and seed, from all parts of Florida outside the quarantined area (part of Manatee County). Inspections will still be required in an area adjacent to the quarantined area.

We estimate that this action will benefit owners of approximately 1300 commercial groves, 4,000 other groves, 1,000 citrus nurseries (both propagators and non-propagators), and 900 packing houses (about 600 registered packing houses and 300 small gift-fruit packers), the majority of which can be defined as small entities under guidelines established by the Small Business Administration.

Removing restrictions on the interstate movement of regulated fruit produced outside the quarantined area will benefit a number of growers. Under the final rule, some groves now ineligible for moving regulated fruit interstate to commercial citrus-producing areas will be able to do so. These are groves that are located within the current A-strain area but outside the quarantined area described in this final rule. We estimate that about 50 of the approximately 450 commercial groves in this area produce regulated fruit for interstate movement and, therefore, could be affected by this action. Also, personnel, vehicles, and equipment used in these groves also will no longer have to be disinfected, resulting in a savings to grove owners of approximately $20–$25 per acre per year.

Removing treatment requirements for regulated fruit produced and packed outside the quarantined area may result in some small economic benefit to some small entities preparing regulated fruit for interstate movement. Regulated fruit moving interstate to commercial citrus-producing areas, and regulated fruit moving interstate from the current A-strain area, must now be treated with a chemical disinfectant. Under this final rule, regulated fruit produced and packed outside the quarantined area will no longer have to be treated.

Removing inspection requirements for groves and nurseries outside the quarantined area and a small adjacent area will result in little, if any, economic benefit for affected small entities, because they are not charged for these inspections. The greatest economic benefit will accrue to State and Federal agencies, which are responsible for conducting and monitoring these inspections statewide. The cost savings will allow State and Federal agencies to concentrate their efforts in one part of the State to prevent the spread of and eradicate citrus canker associated with the Asiatic strains.

Removing restrictions on the source of nursery plants for groves outside the quarantined area and producing regulated fruit for interstate movement may provide economic benefit to some nurseries where the Florida nursery strain is found. These establishments will no longer be prevented by our regulations from supplying plants to groves producing regulated fruit for interstate movement.

Removing restrictions on the interstate movement of regulated seed and plants from outside the quarantined area is unlikely to have a significant economic impact on small entities. Very little regulated seed is moved interstate, and the out-of-state market for regulated plants is limited. In addition to own-root-only calamondin and kumquat plants, which are currently eligible for interstate movement if produced outside the A-strain area, we are aware of only two types of regulated plants that may be moved interstate under this final rule. These are individually packaged lemon and lime plants, sold before the citrus canker quarantine as souvenirs, and citrus trees in large containers, which are used in atriums or other indoor settings. Only two businesses in Florida have expressed an interest in selling the individually packaged lemon and lime plants. A number of nurseries may be interested in moving the container-grown trees interstate. It was not possible for the Department to determine how much income these small entities may derive from the interstate sale of individually packaged lemon and lime plants or the potted plants; however, these types of plants normally constitute a small part of the inventory of those businesses that handle them.

Removing the requirements for certificates and limited permits will benefit some small entities by removing a paperwork burden. Under this final rule, regulated articles may be moved interstate from outside the quarantined area without a limited permit or certificate.

Interstate Movement of Regulated Articles From and Through the Quarantined Area

A small area of Florida currently under special restriction because of the Asiatic strains will remain under quarantine to prevent the interstate spread of citrus canker. We estimate

that there are 1650 acres of commercial citrus in this area, less than 0.3 percent of the total citrus acreage in the State (697,929 acres in 1988). Within this area, there are approximately 46 commercial grove owners, 5 citrus nursery propagators, 5 citrus nursery stockdealers, 4 roadside fruit stands, and 1 flea market where citrus is sold. Most of these establishments can be classified as small entities under the guidelines established by the Small Business Administration. There are no packing houses or processing plants. A number of private residential properties have groves of 1 to 9 citrus trees, but they do not produce regulated fruit for sale.

All nurseries in the quarantined area that contain regulated plants will have to be inspected for citrus canker at intervals of no more than 45 days. The regulations currently allow certain nurseries to be exempted from these inspection requirements. However, all nurseries in the quarantined area are being inspected in accordance with the current regulations. As already noted, there is no charge for these inspections.

All regulated trees and plants (except indoor houseplants) in the quarantined area, other than those at nurseries, will have to be inspected annually for citrus canker. Most groves and other properties in the quarantined area are already being inspected at least annually, as a result of our current regulations or as the result of surveys conducted by the State. There is no cost to the owner of any grove or other property for these inspections.

All infected plants and trees will have to be destroyed. At present, there are no known infected plants or trees in the quarantined area. If any become infected, destruction could cost up to $250 for a mature grove tree and $6 to $8 for a citrus seedling. However, there is no proven alternative to the destruction of infected material for achieving eradication of citrus canker. Although the costs of destruction may appear to be high initially for an owner whose trees and plants are found to be infected with citrus canker, alternative measures are unlikely to result in any economic savings. Less severe action on infected material, such as repeated defoliation of infected trees, increases the risk that the disease will manifest itself again and spread to other plants and trees. In addition, the use of alternative control measures, such as defoliation, will result in expenses for the owner. Citrus canker left unchecked will not only cause serious damage to the trees, plants, and fruit initially infected, but would result in widespread losses in larger areas. Therefore, we believe that the detection and eradication measures in this final rule will minimize the likelihood of citrus canker infestations, whose numbers have declined steadily since 1986, and the potential economic losses caused by this disease.

All vehicles, equipment, and other articles used in providing inspection, maintenance, harvesting, or related services in any grove in the quarantined area that contains regulated plants or trees, or in providing landscaping or lawn care services on any premises in the quarantined area that contain regulated plants or trees, will have to be treated upon leaving the grove or premises. All personnel who enter the grove or other premises to provide these services also must be treated upon leaving the grove or premises. Treatment of personnel, vehicles, and equipment is already required under the current regulations in groves of 10 or more trees producing regulated fruit for interstate movement. This action would affect all other grove owners in the quarantined area, as well as operators of landscaping and lawn care services. The costs to grove owners, estimated at about $20–25 per acre per year, would be a very small percentage of overall production expenses. The cost to owners of landscaping and lawn services also would be low, an estimated $1–2 per day for materials and hand-held sprayers. As noted earlier in this document, in response to commenters' concerns that costs would be higher, APHIS plans to hold workshops and demonstrations to show owners and operators how APHIS wants equipment cleaned and disinfected.

Increasing the length of time a grove must be free of infected plants before fruit from the grove is eligible for interstate movement (from 1 year to 2 years) will affect only those groves that produce regulated fruit for the fresh fruit market in other States and that have had infected plants during the 2 years prior to the interstate movement. At present, this restriction affects only 1 commercial grove owner in Manatee County. Fruit from groves where an infestation has occurred within the past 2 years will remain eligible for processing, but grove owners may receive less money for the fruit than if they were able to market it as fresh fruit. The difference in price between fruit sold for processing and fruit sold for the fresh fruit market fluctuated during 1987 and 1988 between 4 and 22 percent for oranges and between 30 and 50 percent for grapefruit.

Allowing the interstate movement of regulated fruit produced in groves located within ½ mile of a property where an infestation has been found during the 2 years prior to the movement will benefit 4 growers. Previously, this fruit was not eligible for interstate movement.

Requiring all groves in the quarantined area that contain regulated trees to obtain nursery plants from nurseries inspected and found free of citrus canker, or from nurseries outside the quarantined area, will have little, if any, impact. All nurseries in the quarantined area are inspected for citrus canker in accordance with the current regulations, and all have been free of infestations caused by the Asiatic strain.

Intrastate Movement of Regulated Articles from the Quarantined Area

As a condition for designating less than the entire State of Florida as a quarantined area, this final rule requires the State to enforce certain restrictions on the intrastate movement of regulated articles from the quarantined area.

With certain exceptions, the intrastate movement of regulated plants and fruit from the quarantined area is prohibited. A few growers who produce specialty fruit for sale as fresh fruit within the State may be negatively affected by the loss of markets outside the proposed quarantined areas. We do not have any figures to indicate the extent of the economic effect on these small entities. Some citrus nurseries, both propagators and nonpropagators, in the proposed quarantined area may lose customers that are outside this area. It was not possible for the Department to determine the extent or magnitude of these business transactions.

Paperwork Reduction Act

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

Executive Order 12372

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

List of Subjects in 7 CFR Part 301

Agricultural commodities, Citrus canker, Plants (Agriculture), Plant diseases, Plant pests, Quarantine, Transportation.

Accordingly, 7 CFR part 301 is amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Citrus Canker

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167, 7 CFR 2.17, 2.51, and 371.2(c).

§§ 301.75, 301.75–6, 301.75–7, 301.75–9, 301.75–10, 301.75–13, 301.75–14, 301.75–15, and 301.75–16 [Removed]

2. Sections 301.75, 301.75–6, 301.75–7, 301.75–9, 301.75–10, 301.75–13, 301.75–14, 301.75–15, and 301.75–16 are removed.

§§ 301.75–2, 301.75–3, 301.75–4, 301.75–5, 301.75–8, 301.75–11, and 301.75–12 [Redesignated as §§ 301.75–3, 301.75–4, 301.75–5, 301.75–9, 301.75–13, 301.75–14, and 301.75–11, respectively]

3. Sections 301.75–2, 301.75–3, 301.75–4, 301.75–5, 301.75–8, 301.75–11, and 301.75–12 are redesignated as §§ 301.75–3, 301.75–4, 301.75–5, 301.75–9, 301.75–13, 301.75–14, and 301.75–11, respectively.

4. Section 301.75–1 is revised to read as follows:

§ 301.75–1 Definitions.

Administrator. The Administrator of the Animal and Plant Health Inspection Service or any individual authorized to act for the Administrator.

Animal and Plant Health Inspection Service. The Animal and Plant Health Inspection Service of the United States Department of Agriculture.

Certificate. An official document of the United States Department of Agriculture authorizing the interstate movement of a regulated article from a quarantined area into any area of the United States.

Citrus canker. A plant disease caused by strains of the bacterium *Xanthomonas campestris* pv. *citri.*

Commercial citrus-producing area. Any area designated as a commercial citrus-producing area in accordance with § 301.75–5 of this subpart.

Compliance agreement. A written agreement between the Animal and Plant Health Inspection Service and a person engaged in the business of growing or handling regulated articles for interstate movement, in which the person pledges to comply with this subpart.

Departmental permit. An official document of the United States Department of Agriculture authorizing the movement of a regulated article from a quarantined area.

Departmental tag or label. An official tag or label of the United States Department of Agriculture, which, attached to a regulated article or its container, indicates that the regulated article is eligible for interstate movement with a Departmental permit.

Exposed. Determined by an inspector to be at risk for developing citrus canker because of proximity during the past 2 years to infected plants, or to personnel, vehicles, equipment, or other articles that may have been contaminated with bacteria that cause citrus canker.

Grove. Any tree or stand of trees maintained to produce fruit and separated from other trees by a boundary, such as a fence, stream, road, canal, irrigation ditch, hedgerow, open space, or sign or marker denoting change of fruit variety.

Infected. Containing bacteria that cause citrus canker.

Infestation. The presence of a plant or plants infected with citrus canker at a particular location, except when the plant or plants contracted the infection at a previous location and the infection has not spread to any other plant at the present location.

Inspector. An individual authorized by the Administrator to perform the specified duties.

Interstate. From any State into or through any other State.

Limited permit. An official document of the United States Department of Agriculture authorizing the interstate movement of a regulated article from a quarantined area, but restricting the areas of the United States into which the regulated article may be moved.

Move. Ship, carry, transport, offer for shipment, receive for shipment, or allow to be transported by any means.

Movement. The act of shipping, carrying, transporting, offering for shipment, receiving for shipment, or allowing to be transported by any means.

Nursery. Any premises, including greenhouses but excluding any grove, at which plants are grown or maintained for propagation or replanting.

Person. Any individual, partnership, corporation, company, society, association, or other organized group.

Quarantined area. Any area designated as a quarantined area in accordance with § 301.75–4 of this subpart.

Regulated article. Any article listed in § 301.75–3 (a) or (b) of this subpart or designated as a regulated article in accordance with § 301.75–3(c) of this subpart.

Regulated fruit, regulated plant, regulated seed, regulated tree. Any fruit, plant, seed, or tree defined as a regulated article.

State. Each of the 50 States of the United States, the District of Columbia, Guam, the Northern Mariana Islands, Puerto Rico, the Virgin Islands of the United States, and all other territories and possessions of the United States.

United States. All of the States, the District of Columbia, Guam, the Northern Mariana Islands, Puerto Rico, the Virgin Islands of the United States, and all other territories and possessions of the United States.

5. A new § 301.75–2 is added to read as follows:

§ 301.75–2 General prohibitions.

(a) Regulated articles may not be moved interstate from a quarantined area expect in accordance with this subpart.

(b) Regulated articles moved from a quarantined area with a limited permit may not be moved interstate into any commercial citrus-producing area, except as follows: The regulated articles may be moved through a commercial citrus-producing area if they are covered, or enclosed in containers or in a compartment of a vehicle, while in the commercial citrus-producing area, and are not unloaded in the commercial citrus-producing area without the permission of an inspector.

(c) Regulated articles moved interstate with a limited permit to an area of the United States that is not a commercial citrus-producing area.

6. In redesignated § 301.75–3, paragraph (b) is redesignated as paragraph (c) and a new paragraph (b) is added to read as follows:

§ 301.75–3 Regulated articles.

* * * * *

(b) Grass, plant, and tree clippings.

* * * * *

7. Redesignated § 301.75–4 is revised to read as follows:

§ 301.75–4 Quarantined areas.

(a) The following States or portions of States are designated as quarantined areas:

Florida

Manatee County. That portion of Manatee County bounded by the Manatee River, beginning at Interstate 75 and extending west of Gulf and Bay Estates to Terra Ceia Bay, Terra Ceia Bay northeast to the Terra Ceia River, the Terra Ceia River north to Interstate 275, Interstate 275 east to Bishop Harbor Road, Bishop Harbor Road north and east to where it becomes Elleton Gillette and then Moccasin Wallow Road, Moccasin Wallow Road east to Interstate 75, Interstate 75 south to the Manatee River, and the following

portions of Manatee County east of Interstate 75: Township 23, Range 18, Sections 21, 22, 27, 28, 33, and 34, and Township 34, Range 18, Sections 3 and 4 north of 37th Street East and Lake Shore Drive.

(b) The Administrator may designate any non-quarantined area as a quarantined area in accordance with paragraphs (c) and (d) of this section upon giving written notice of this designation to the owner or persons in possession of the non-quarantined area. Thereafter, regulated articles may be moved interstate from that area only in accordance with this subpart. As soon as practicable, this area will be added to the list in pargraph (a) of this section, or the Administrator will terminate the designation. The owner or person in possession of an area for which designation is terminated will be given written notice as soon as practicable.

(c) Any State or portion of a State where an infestation is detected will be designated as a quarantined area and will remain so until the area has been without infestation for 2 years.

(d) Less than an entire State will be designated as a quarantined area only if all of the following conditions are met:

(1) *Survey area.* In the following area, inspections are conducted as required by paragraphs (d)(1)(i), (d)(1)(ii), and (d)(1)(iii) of this section:

Florida

Hillsborough County south of State Highway 672 and west of State Highway 39, Sarasota County south of the Manatee County line, west of Interstate 75, and north of State Highway 72, County Road 789, and an imaginary line extending due west to the Gulf of Mexico, and all of Manatee County outside the quarantined area.

(i) Every regulated plant and regulated tree, except indoor houseplants and regulated plants and regulated trees at nurseries, is inspected for citrus canker at least once a year, during May 1 through December 31, by an inspector, on foot.

(ii) Every regulated tree and regulated plant at every nursery containing regulated trees or regulated plants is inspected for citrus canker by an inspector at inervals of no more than 45 days, and

(iii) At every grove producing regulated fruit for interstate movement, an inspector walks through the grove no more than 30 days before harvest begins and inspects every regulated plant and regulated tree.

(2) *Intrastate movement of regulated articles.* The State enforces restrictions on the intrastate movement of regulated articles from the guarantined area that are at least as stringent as those on the interstate movement of regulated articles from the guarantined area, except as follows:

(i) Regulated fruit may be moved intrastate from a quarantined area for processing into a product other than fresh fruit if all of the following conditions are met:

(A) The regulated fruit is accompanied by a document that states the location of the grove in which the regulated fruit was produced, the variety and quantity of regulated fruit being moved intrastate, the address to which the regulated fruit will be delivered for processing, and the date the intrastate movement began,

(B) The regulated fruit and any leaves and litter are completely covered, or enclosed in containers or in a compartment of a vehicle, during the intrastate movement.

(C) The vehicles, covers, and any containers used to carry the regulated fruit intrastate are treated in accordance with § 301–11(d) of this subpart before leaving the premises where the regulated fruit is unloaded for processing, and

(D) All leaves, litter, and culls collected from the shipment of regulated fruit at the processing facility are either incinerated at the processing facility or buried at a public landfill that is fenced, prohibits the removal of dumped material, and covers dumped material with dirt at the end of every day that dumping occurs.

(ii) Regulated fruit may be moved intrastate from a quarantined area for packing, either for subsequent interstate movement with a limited permit or for export from the United States, if all of the following conditions are met:

(A) The regulated fruit is accompanied by a document that states the location of the grove in which the regulated fruit was produced, the variety and quantity of regulated fruit being moved intrastate, the address to which the regulated fruit will be delivered for packing, and the date the intrastate movement began.

(B) The regulated fruit and any leaves and litter are completely covered, or enclosed in containers or in a compartment of a vehicle, during the intrastate movement.

(C) The vehicles, covers, and any containers used to carry the regulated fruit intrastate are treated in accordance with § 301.75–11(d) of this subpart before leaving the premises where the regulated fruit is unloaded for packing.

(D) At the packing plant, the regulated fruit is stored separately from and has no contact with fruit eligible for interstate movement to commercial citrus-producing areas. Any equipment that comes in contact with the regulated fruit at the packing plant is treated in accordance with § 301.75–11(d) of this subpart before being used to handle any fruit eligible for interstate movement to commercial citrus-producing areas, and

(E) All leaves and litter collected from the shipment of regulated fruit at the packing plant are either incinerated at the packing plant or buried at a public landfill that is fenced, prohibits the removal of dumped material, and covers dumped material with dirt at the end of every day that dumping occurs. All culls collected from the shipment of regulated fruit are either processed into a product other than fresh fruit, incinerated at the packing plant, or buried at a public landfill that is fenced, prohibits the removal of dumped material, and covers dumped material with dirt at the end of every day that dumping occurs. Any culls moved intrastate for processing must be completely covered, or enclosed in containers or in a compartment of a vehicle, during the intrastate movement, and the vehicles, covers, and any containers used to carry the regulated fruit must be treated in accordance with § 301.75–11(d) of this subpart before leaving the premises where the regulated fruit is unloaded for processing.

(iii) Grass, tree, and plant clippings may be moved intrastate from the quarantined area for disposal in a public landfill or for composting in a recycling facility, if all of the following conditions are met:

(A) The public landfill or recycling facility is located within the survey area described in paragraph (d)(1) of this section,

(B) The grass, tree, or plant clippings are completely covered during the movement from the quarantined area to the public landfill or recycling facility, and

(C) Any public landfill used is fenced, prohibits the removal of dumped material, and covers dumped material with dirt at the end of every day that dumping occurs.

8. A new § 301.75–6 is added to read as follows:

§ 301.75–6 Interstate movement of regulated articles from a quarantined area, general requirements.

No regulated article may be moved interstate from a quarantined area unless all of the following conditions are met:

(a) *Inspections.* (1) In the quarantined area, every regulated plant and regulated tree, except indoor houseplants and regulated plants and regulated trees at nurseries, is inspected for citrus canker at least once a year,

during May 1 through December 31, by an inspector, on foot.

(2) In the quarantined area, every regulated plant and regulated tree at every nursery containing regulated plants or regulated trees is inspected for citrus canker by an inspector at intervals of no more than 45 days.

(b) *Treatment of personnel, vehicles, and equipment.* In the quarantined area, all vehicles, equipment, and other articles used in providing inspection, maintenance, harvesting, or related services in any grove containing regulated plants or regulated trees, or in providing landscaping or lawn care services on any premises containing regulated plants or regulated trees, must be treated in accordance with § 301.75–11(d) of this subpart upon leaving the grove or premises. All personnel who enter the grove or permises to provide these services must be treated in accordance with § 301.75–11(c) of this subpart upon leaving the grove or premises.

(c) *Destruction of infected plants and trees.* No more than 7 days after a State or Federal laboratory confirms that a regulated plant or regulated tree is infected, the State must provide written notice to the owner of the infected plant or infected tree that the infected plant or infected tree must be destroyed. The owner must have the infected plant or infected tree destroyed within 45 days after receiving the written notice.

9. A new § 301.75–7 is added to read as follows:

§ 301.75–7 Interstate movement of regulated fruit from a quarantined area.

(a) *Regulated fruit produced in a quarantined area.* Regulated fruit may be moved interstate from a quarantined area into any area of the United States except commercial citrus-producing areas if all of the following conditions are met:

(1) During the year before the interstate movement, the grove producing the regulated fruit received regulated plants only from the following nurseries:

(i) Nurseries located outside any quarantined areas, or

(ii) Nurseries where an inspector has found every regulated plant free of citrus canker on each of three successive inspections conducted at intervals of no more than 45 days, with the third inspection no more than 45 days before shipment.

(2) During the 2 years before the interstate movement, no plants or plant parts infected with citrus canker were found in the grove producing the regulated fruit and any exposed plants in the grove at high risk for developing citrus canker have been destroyed. Identification of exposed plants at high risk for developing citrus canker will be based on an evaluation of all of the circumstances related to their exposure, including, but not limited to, the following:

(i) The stage of maturity of the exposed plant at the time of exposure, the size and degree of infestation to which the plants were exposed.

(ii) The proximity of exposed plants to infected plants or contaminated articles at the time of exposure, and

(iii) The length of time the plants were exposed.

(3) No more than 30 days before the beginning of harvest, an inspector walked through the grove, inspected every tree, and found the grove free of citrus canker, and, in groves producing limes, an inspector walked through the grove every 120 days or less thereafter for as long as harvest continued, inspected every lime tree on each walk-through, and continued to find the grove free of citrus canker.

(4) The regulated fruit was treated in accordance with § 301.75–11(a) of this subpart.

(5) The regulated fruit is free of leaves, twigs, and other plant parts, except for stems that are less than one inch long and attached to the fruit.

(6) The regulated fruit is accompanied by a limited permit issued in accordance with § 301.75–12 of this subpart.

(b) *Regulated fruit not produced in a quarantined area.* Regulated fruit not produced in a quarantined area but moved into a quarantined area for packing may be moved interstate from the quarantined area into any area of the United States except commercial citrus-producing areas if all of the following conditions are met:

(1) The regulated fruit was accompanied to the packing plant by a bill of lading stating the location of the grove in which the regulated fruit was produced.

(2) The regulated fruit was treated in accordance with § 301.75–11(a) of this subpart.

(3) The regulated fruit is free of leaves, twigs, and other plant parts, except for stems that are less than one inch long and attached to the regulated fruit.

(4) The regulated fruit is accompanied by a limited permit issued in accordance with § 301.75–12 of this subpart.

10. A new § 301.75–8 is added to read as follows:

§ 301.75–8 Interstate movement of regulated seed from a quarantined area.

Regulated seed may be moved interstate from a quarantined area into any area of the United States if all of the following conditions are met:

(a) During the 2 years before the interstate movement, no plants or plant parts infected with or exposed to citrus canker were found in the grove or nursery producing the fruit from which the regulated seed was extracted.

(b) The regulated seed was treated in accordance with § 301.75–11(b) of this subpart.

(c) The regulated seed is accompanied by a certificate issued in accordance with § 301.75–12 of this subpart.

§ 301.75–9 Interstate movement of regulated articles from a quarantined area for experimental or scientific purposes.

11. In redesignated § 301.75–9, the heading is revised to read as set forth above.

12. A new § 301.75–10 is added to read as follows:

§ 301.75–10 Interstate movement of regulated articles through a quarantined area.

Any regulated article not produced in a quarantined area may be moved interstate through a quarantined area, without a certificate, limited permit, or Departmental permit, if all of the following conditions are met:

(a) The regulated article is accompanied by either: A receipt showing that the regulated article was purchased outside the quarantined area, or a bill of lading stating the location of the premises where the shipment originated, the type and quantity of regulated articles being moved interstate, and the date the interstate movement began.

(b) The regulated article is moved through the quarantined area without being unloaded, and no regulated article, except regulated fruit that qualifies for interstate movement from the quarantined area in accordance with § 301.75–7 of this subpart, is added to the shipment in the quarantined area.

(c) The regulated article is completely covered, or enclosed in containers or in a compartment of a vehicle, during movement through the quarantined area, except that, covering or enclosure is not required if the regulated article is moved through the quarantined area without stopping, except for refueling or for traffic conditions, such as traffic lights or stop signs.

13. In redesignated § 301.75–11, paragraphs (a) and (b), the introductory text of paragraphs (c) and (d) are revised to read as follows:

§ 301.75–11 Treatments.

(a) *Regulated fruit.* Regulated fruit for which treatment is required by this subpart must be treated in one of the following ways in the presence of an inspector, or at a facility whose owner operates under a compliance agreement:

(1) The regulated fruit must be thoroughly wetted for at least 2 minutes with a solution containing 200 parts per million sodium hypochlorite, with the solution maintained at a pH of 6.0 to 7.5, or

(2) The regulated fruit must be thoroughly wetted with a solution containing sodium o-phenyl phenate (SOPP) at a concentration of 1.86 to 2.0 percent of the total solution, for 45 seconds if the solution has sufficient soap or detergent to cause a visible foaming action or for 1 minute if the solution does not contain sufficient soap to cause a visible foaming action.

(3) Sodium hypochlorite and SOPP must be applied in accordance with label directions.

(b) *Regulated seed.* Regulated seed for which treatment is required by this subpart must be extracted from fruit that has been treated in accordance with paragraph (a) of this section. The regulated seed must then be cleaned free of pulp, immersed for 10 minutes in water heated to 125° F. (51.6° C.) or higher, then immersed for at least 2 minutes in a solution containing 200 parts per million sodium hypochlorite, with the solution maintained at a pH of 6.0 to 7.5

(c) *Personnel.* All personnel for which treatment is required by this subpart must clean their hands using one of the following disinfectants:

* * * * *

(d) *Vehicles, equipment, and other articles.* All vehicles, equipment, and other articles for which treatment is required by this subpart must be cleaned and disinfected by removing all plants, leaves, twigs, fruit, and other plant parts from all areas of the equipment or vehicles, including in cracks, under chrome strips, and on the undercarriage of vehicles, and by wetting all surfaces (including the inside of boxes and trailers), to the point of runoff, with one of the following disinfectants:

* * * * *

14. A new § 301.75–12 is added to read as follows:

§ 301.75–12 Certificates and limited permits.

(a) *Issuance and withdrawal.* (1) Certificates and limited permits may be issued for the interstate movement of regulated articles only by an inspector or by persons operating under a compliance agreement.

(2) A certificate or limited permit may be withdrawn by an inspector if the inspector determines that any of the applicable requirements of this subpart have not been met. The decision of the inspector and the reason for the withdrawal must be confirmed in writing as promptly as circumstances allow. Any person whose certificate or limited permit is withdrawn may appeal the decision in writing to the Administrator within 10 days after receiving the written notification. The appeal must state all of the facts and reasons upon which the person relies to show that the certificate or limited permit was wrongfully withdrawn. The Administrator must grant or deny the appeal in writing, stating the reasons for the decision, as promptly as circumstances allow. If there is a conflict as to any material fact, a hearing will be held to resolve the conflict. Rules of practice concerning the hearing will be adopted by the Administrator.

(b) *Attachment and disposition.* (1) Certificates and limited permits accompanying regulated articles interstate must be attached during the interstate movement to one of the following:

(i) The outside of the regulated article, if the regulated article is not packed in a container, or

(ii) The outside of the container in which the regulated article is packed, or

(iii) The consignee's copy of the accompanying waybill, but only if the regulated article is described on the certificate, limited permit, or waybill in a way that allows the regulated article to be identified.

(2) Certificates and limited permits accompanying regulated articles interstate must be given to the consignee at the point of destination.

15. Redesignated § 301.75–13 is revised to read as follows:

§ 301.75–13 Compliance agreements.

(a) *Eligibility.* Any person engaged in the business of growing or handling regulated articles for interstate movement may enter into a compliance agreement with the Animal and Plant Health Inspection Service to facilitate the interstate movement of regulated articles in accordance with this subpart. Compliance agreements may be arranged by contacting a local office of Plant Protection and Quarantine, Animal and Plant Health Inspection Service (listed in local telephone directories), or by contacting the Administrator, c/o the Operational Support Staff, PPQ, APHIS, USDA, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

(b) *Cancellation.* Any compliance agreement may be cancelled orally or in writing by an inspector if the inspector finds that the person who entered into the compliance agreement has failed to comply with this subpart. If the person is given notice of cancellation orally, written confirmation of the decision and the reasons for it must be provided as promptly as circumstances allow. Any person whose compliance agreement is cancelled may appeal the decision in writing to the Administrator within 10 days after receiving the written notification. The appeal must state all of the facts and reasons upon which the person relies to show that the compliance agreement was wrongfully cancelled. The Administrator must grant or deny the appeal, in writing, stating the reasons for the decision, as promptly as circumstances allow. If there is a conflict as to any material fact, a hearing will be held to resolve the conflict. Rules of practice concerning the hearing will be adopted by the Administrator.

Done in Washington, DC, this 6th day of September 1990.

Robert Melland,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90–21351 Filed 9–7–90; 9:32 am]

BILLING CODE 3410–34–M

Reader Aids

Federal Register

Vol. 55, No. 176

Tuesday, September 11, 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, SEPTEMBER

35885-36256.....4
36257-36596.....5
36597-36800.....6
36801-37218.....7
37219-37306.....10
37307-37454.....11

CFR PARTS AFFECTED DURING SEPTEMBER

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:
6174.....36597
Administrative Orders:
Presidential Determinations
No. 89-25 of August 28, 1989 (See Presidential Determination No. 90-38 of September 5, 1990).....37307
No. 90-33 of August 19, 1990.....37309
No. 90-38 of September 5, 1990.....37307
Memorandums:
August 29, 1990.....36257

7 CFR

29.....35885
301.....37311, 37442
403.....35886
405.....35886
406.....35886
409.....35886, 35888
416.....35886
422.....35886, 35888
425.....35886
430.....35886
435.....35886
437.....35886
441.....35886
443.....35886
445.....35886
446.....35886
447.....35886
450.....35886
451.....35886
454.....35886
455.....35886
456.....35886
910.....35889, 36599, 37219
932.....35891
944.....35891
958.....36600
965.....36601
967.....35893
981.....36602
985.....36605
989.....36607
1076.....35894
1922.....35895
1930.....35895
1944.....35895
Proposed Rules:
907.....36653
919.....36825
997.....37238
1767.....37936
1965.....35907

8 CFR

212.....36259

9 CFR

78.....37312
381.....36608

10 CFR

2.....36801
Proposed Rules:
961.....37152

12 CFR

1400.....36609
Proposed Rules:
225.....36282

13 CFR

Proposed Rules:
121.....35908

14 CFR

11.....37287
21.....36259, 37287
23.....36259, 37287
25.....37287
33.....37287
34.....37287
39.....36264-36270, 37221, 37313, 37316
43.....37287
45.....37287
71.....37318
91.....37287
97.....37319
1201.....37222
Proposed Rules:
Ch. I.....37246
39.....36284, 37246, 37247
71.....37331
77.....37287
91.....36592
147.....37416

15 CFR

775.....35896, 36610
776.....36271

16 CFR

305.....37321

17 CFR

140.....35897

20 CFR

Proposed Rules:
404.....36656
416.....37249, 37332

21 CFR

314.....37322

358 ... 37403
510 ... 37226
522 ... 36751
558 ... 37287
Proposed Rules:
197 ... 36289
882 ... 36578

22 CFR
1001 ... 36806
1102 ... 35898

23 CFR
140 ... 35903
Proposed Rules:
635 ... 36289

24 CFR
511 ... 36611
Proposed Rules:
30 ... 37290
100 ... 37072

25 CFR
286 ... 36272

26 CFR
1 ... 36274, 37226
52 ... 36612
602 ... 36612
Proposed Rules:
1 ... 36290, 36657, 3675
52 ... 36659
602 ... 36659

30 CFR
56 ... 37216
57 ... 37216
218 ... 37227
Proposed Rules:
56 ... 36838, 37333
57 ... 36838, 37333
58 ... 36838, 37333
70 ... 36838, 37333
71 ... 36838, 37333
72 ... 36838, 37333
75 ... 36838, 37333
901 ... 36660
935 ... 36661

31 CFR
Proposed Rules:
103 ... 36663

32 CFR
651 ... 35904
807 ... 36631

33 CFR
126 ... 36248
151 ... 35986
154 ... 36248
155 ... 35986, 36248
156 ... 36248
158 ... 35986
165 ... 36278
175 ... 37403
181 ... 37403
Proposed Rules:
117 ... 36666
127 ... 35983
154 ... 35983
167 ... 36666

34 CFR
105 ... 37166

40 CFR
52 ... 36632–36635, 36810, 36812
60 ... 36932
61 ... 37230
228 ... 37231, 37234, 37322
421 ... 36932
716 ... 36638
Proposed Rules:
51 ... 36458
52 ... 36290, 36458, 36839
81 ... 36290
171 ... 36297
280 ... 36840

42 CFR
412 ... 35990, 36754
413 ... 35990
435 ... 36813
436 ... 36813
440 ... 36813

43 CFR
Proposed Rules:
4 ... 36669

44 CFR
64 ... 36278

45 CFR
78 ... 37436

46 CFR
25 ... 35986
30 ... 37406
64 ... 37406
70 ... 37406
90 ... 37406
98 ... 37406
109 ... 37406
151 ... 37406
153 ... 37406
540 ... 35983
580 ... 36932
Proposed Rules:
25 ... 35983
32 ... 35983
34 ... 35983
50 ... 35983
52 ... 35983
53 ... 35983
54 ... 35983
55 ... 35983
56 ... 35983
57 ... 35983
58 ... 35983
59 ... 35983
71 ... 35983
76 ... 35983
91 ... 35983
92 ... 35983
95 ... 35983
107 ... 35983
108 ... 35983
150 ... 35983
153 ... 35983, 36670
162 ... 35983
163 ... 35983
169 ... 35983
170 ... 35983
174 ... 35983
182 ... 35983
189 ... 35983
190 ... 35983
193 ... 35983

47 CFR
1 ... 36640
73 ... 35905, 36279, 36823, 37236, 37237
Proposed Rules:
1 ... 35909, 31438
2 ... 37339
25 ... 37339
61 ... 36672
73 ... 35909, 35910, 36297–36299, 36840, 36841, 37253

48 CFR
3 ... 36782
4 ... 36782
9 ... 36782
14 ... 36782
15 ... 36782
37 ... 36782
52 ... 36782
53 ... 36782
Proposed Rules:
8 ... 36774
15 ... 36774
31 ... 36774
52 ... 36774
53 ... 36774

49 CFR
107 ... 37028
171 ... 37028
172 ... 37028
173 ... 37028
176 ... 37028
177 ... 37028
178 ... 37028
180 ... 37028
531 ... 37325
541 ... 37326
571 ... 37328
592 ... 37329
593 ... 37330
Proposed Rules:
1061 ... 37339

50 CFR
17 ... 36641
20 ... 36933
32 ... 35906, 36647
33 ... 36647
661 ... 36280, 36824
672 ... 36651
675 ... 36652
Proposed Rules:
227 ... 36751

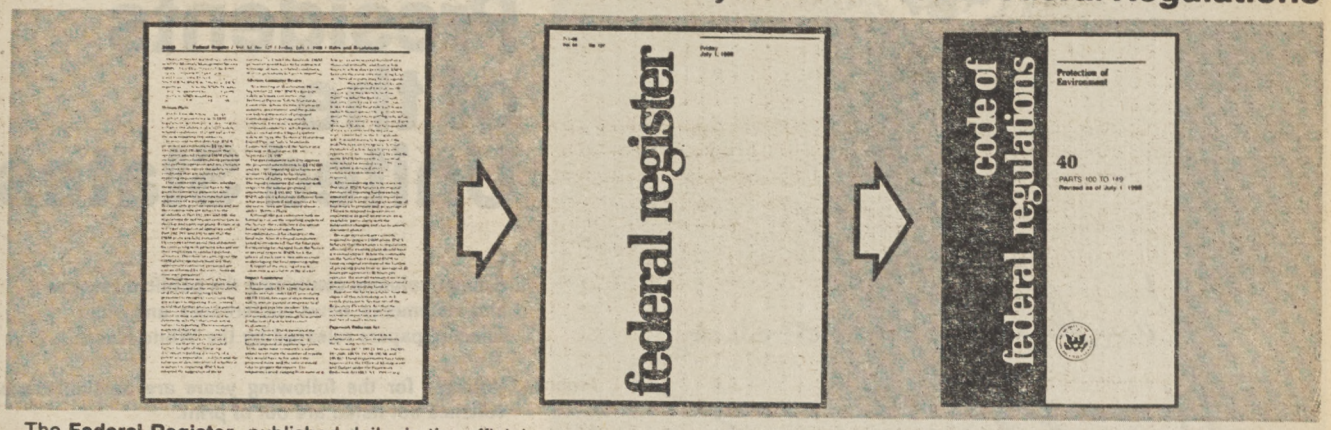
LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List August 22, 1990

The Federal Register

Regulations appear as agency documents which are published daily in the **Federal Register** and codified annually in the **Code of Federal Regulations**



The **Federal Register,** published daily, is the official publication for notifying the public of proposed and final regulations. It is the tool for you to use to participate in the rulemaking process by commenting on the proposed regulations. And it keeps you up to date on the Federal regulations currently in effect.

Mailed monthly as part of a **Federal Register** subscription are: the LSA (List of CFR Sections Affected) which leads users of the **Code of Federal Regulations** to amendatory actions published in the daily **Federal Register;** and the cumulative **Federal Register Index.**

The **Code of Federal Regulations** (CFR) comprising approximately 196 volumes contains the annual codification of the final regulations printed in the **Federal Register**. Each of the 50 titles is updated annually.

Individual copies are separately priced. A price list of current **CFR** volumes appears both in the **Federal Register** each Monday and the monthly **LSA** (List of **CFR** Sections Affected). Price inquiries may be made to the Superintendent of Documents, or the Office of the Federal Register.

Superintendent of Documents Subscription Order Form

Order Processing Code:

***6463**

Charge your order. It's easy! MasterCard VISA

Charge orders may be telephoned to the GPO order desk at (202) 783-3238 from 8:00 a.m. to 4:00 p.m. eastern time, Monday-Friday (except holidays)

☐ **YES,** please send me the following indicated subscriptions:

- **Federal Register**
  - **Paper:**
    ____$340 for one year
    ____$170 for six-months
  - **24 x Microfiche Format:**
    ____$195 for one year
    ____$97.50 for six-months
  - **Magnetic tape:**
    ____$37,500 for one year
    ____$18,750 for six-months

- **Code of Federal Regulations**
  - **Paper**
    ____$620 for one year
  - **24 x Microfiche Format:**
    ____$188 for one year
  - **Magnetic tape:**
    ____$21,750 for one year

1. The total cost of my order is $_____. All prices include regular domestic postage and handling and are subject to change. International customers please add 25%.

Please Type or Print

2. _____
(Company or personal name)

_____
(Additional address/attention line)

_____
(Street address)

_____
(City, State, ZIP Code)

(_____) _____
(Daytime phone including area code)

3. Please choose method of payment:

☐ Check payable to the Superintendent of Documents

☐ GPO Deposit Account ☐☐☐☐☐☐☐–☐

☐ VISA or MasterCard Account

☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

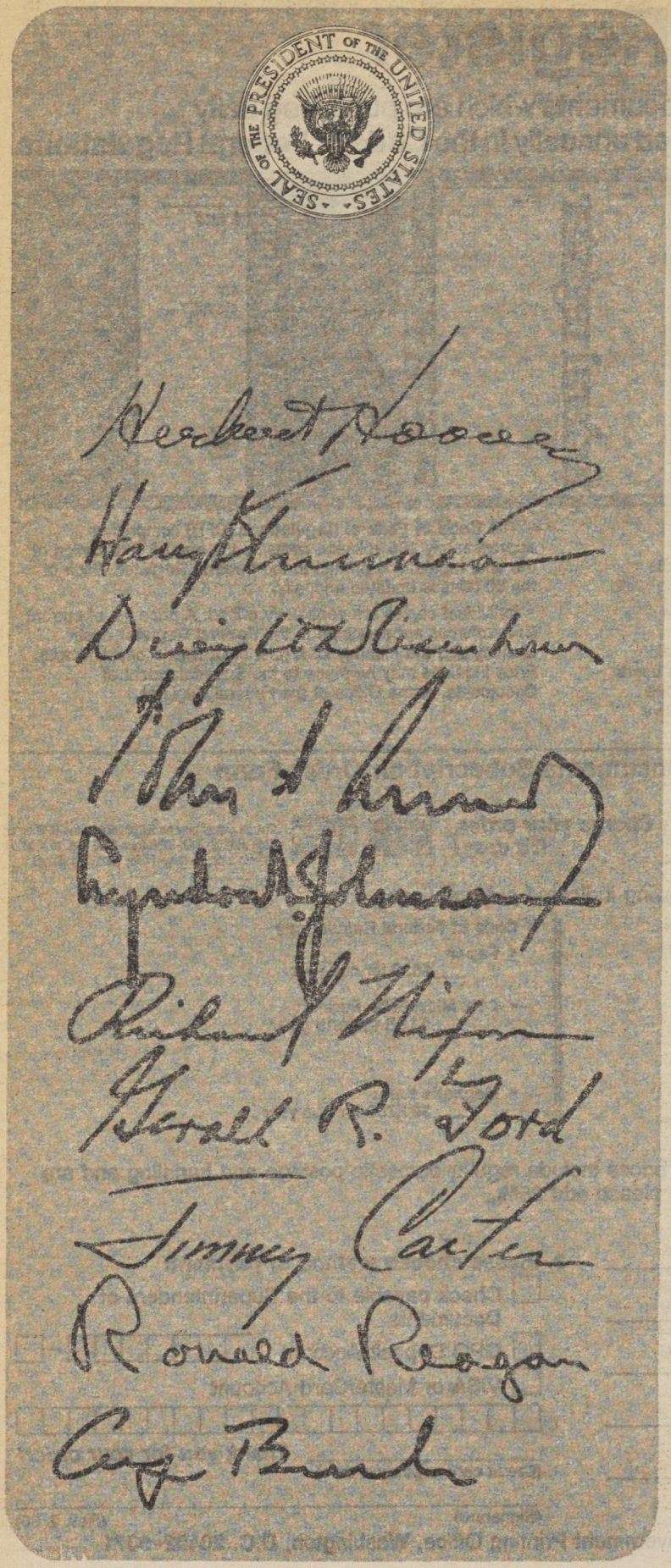
_____
(Credit card expiration date)

Thank you for your order!

_____
(Signature)

(Rev. 2/90)

4. Mail To: Superintendent of Documents, Government Printing Office, Washington, D.C. 20402-9371



Public Papers of the Presidents of the United States

Annual volumes containing the public messages and statements, news conferences, and other selected papers released by the White House.

Volumes for the following years are available; other volumes not listed are out of print.

Jimmy Carter

1978 (Book I) $24.00

1979 (Book I) $24.00

1979 (Book II) $24.00

1980–81 (Book I) $21.00

1980–81 (Book II) $22.00

1980–81 (Book III) $24.00

Ronald Reagan

1981 ..... $25.00

1982 (Book II) $25.00

1983 (Book I) $31.00

1983 (Book II) $32.00

1984 (Book I) $36.00

1984 (Book II) $36.00

1985 (Book I) $34.00

1985 (Book II) $30.00

1986 (Book I) $37.00

1986 (Book II) $35.00

1987 (Book I) $33.00

1987 (Book II) $35.00

1988 (Book I) $39.00

George Bush

1989 (Book I) $38.00

Published by the Office of the Federal Register, National Archives and Records Administration

Order from Superintendent of Documents, U.S Government Printing Office, Washingon, D.C. 20402-9325.